TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~346.~~ 1112

JACOB R. LUDLOW, APPELLANT,

vs.

J. G. M. RAMSEY. —

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TENNESSEE.

FILED DECEMBER 11, 1869.

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INDEX.

	Original.	Print.
Caption	1	1
Bill	1	1
Jurat and certificates	20	6
Prosecution bond	21	6
Summons	22	7
Judgment pro confesso as to Vail	26	8
Leave to amend bill	27	8
Amended bill	28	8
Summons to answer amended bill	38	11
Plea and answer of Ludlow	39	12
Jurat	58	17
Transcript from Knoxville chancery court	59	17
Deed—Vail to Ludlow	102	32
Petition of J. G. M. Ramsey	107	34
Transcript from chancery court	111	35
Motion to appoint receiver	119	37
Appointment of receiver	120	38
Bond of receiver	121	38
Report of receiver to January term, 1869	123	39
July term, 1869	127	40
Judgment pro confesso as to White and Vail	129	41
Deposition of S. T. Atkin	131	42
C. A. Mitchell	133	43
G. M. Hazen	134	43
Louis David	134	43
J. L. Cooper	138	44
D. A. Deaderick	139	45

	Original.	Print.
Deposition of J. T. Abernathy	140	45
John Baxter	141	45
John E. Helms	145	47
D. A. Deaderick	150	48
J. T. Abernathy	153	49
Charles Morrow	160	51
J. W. North	162	52
Horace Foster	164	53
James Rodgers	166	53
J. S. Van Gilder	167	54
E. J. Sanford	168	54
J. T. Abernathy	169	54
T. M. Schlier	170	55
J. R. Ludlow	173	56
Decree, among other things, appointing commissioner	180	57
Deposition of Ludlow touching account	184	59
Report of commissioner	189	60
Amended report of commissioner	191	61
Decree	194	63
Appeal bond	199	64
Bill of costs	200	64
Certificate	201	65

1 Transcript of the record and proceedings in a cause wherein J. G. M. Ramsey is complainant, and Cynthia S. White et al. defendants, determined in the circuit court of the United States for the eastern district of Tennessee, viz:

Bill.

To the Honorable Connally F. Trigg, United States district judge for the district of Tennessee, now holding the United States circuit court for the eastern district of Tennessee, at Knoxville:

[50-ct. stamp.]

Your orator, J. G. M. Ramsey, a citizen of the State of North Carolina, and of the county of Mecklenburg, would respectfully represent that he was the owner of a valuable house and lot situated in the town of Knoxville, East Tennessee, being on the east side of Gay street in said town. Said house was a large three-story brick store-house, known as Ramsey Hall or Block, and now claimed and occupied by J. R. Ludlow, a citizen
2 of Knoxville, and State of Tennessee. Said house and lot is worth from eight to ten thousand dollars. Your orator was indebted to Cynthia S. White, a citizen of said town and State, in the sum of three hundred dollars, due by note, with interest, amounting in all to three hundred and thirty-two dollars, at the time judgment was rendered upon said note. Said Cynthia S. White, by her agent, proceeded to collect said note by a bill filed in the chancery court in Knoxville, on the grounds that your orator was a non-resident of the State, or had absconded, and had an attachment to issue; and the same was levied on the said house and lot by the sheriff of Knox County, on the 25th of Sept., 1863, and on the 28th of Oct., 1864, judgment pro confesso was taken for said sum of three hundred and thirty-two dollars, and an order of sale made by said chancery court, directing the said clerk and master to sell said house and lot, not subject to the right of redemption,
3 on six months' time from the date of sale. On the third day of Jan., 1865, said sale was made, and said property was sold to S. Vail for the price of fifty-one hundred dollars; and on the 5th day of January, 1865, said sale was confirmed by said court, and the title to said property was divested out of your orator, and vested in the said S. Vail, and, by said decree of the court, was placed in possession of the same; and some time in the year 1866 the said Vail sold said property to J. R. Ludlow, a citizen of the State of Tennessee and of the town of Knoxville, for the sum of five thousand dollars, or about that amount, as your orator is informed and believes.

Your orator would state that he left Knoxville a short time before the federal troops arrived, and that his object in leaving was not to avoid the payment of any debt he might owe. He admits that said note was due Cynthia S. White, and that he had previously to his departure frequently offered to pay said note to her said agent, G. M. White, but he
4 declined to receive it, stating that the interest was all he wanted, and that he received when called for.

Your orator would state that he and the said G. M. White are old acquaintances and personal friends, and he believes that the same relationship still exists; and your orator's object is not now to avoid the payment of said note, but believing that said proceedings were illegal, null and void, and great injustice has been done him by the sale of said property, without the equity of redemption, and for about one-half of its value; all of which was done to pay the sum of three hundred and thirty-two dollars.

Your orator is informed and believes that the said George M. White, as agent for his sister Cynthia S. White did not authorize or direct his counsel to have said property sold, not subject to redemption; neither did he know such was the fact until the decree was rendered, and perhaps the sale was made and decree confirmed; but that the said
5 White's sole object was to save the debt for his sister, and not to deprive your orator of his valuable property. The same could have been done by having said property sold subject to redemption; and then your orator could have redeemed the same and saved his property.

Your orator knew nothing of the institution of said suit or sale until long after said sale was made, and the decree confirmed; neither did he know it in time to avail himself of the statute in regard to non-residents or in time to file a bill of review in said case.

Your orator has but recently been informed by his counsel that said suit was commenced and proceeded with as stated above, and that publication was made in Brownlow's Knoxville Whig, a newspaper published in said town of Knoxville, by the clerk and master of the chancery court at Knoxville, notifying him of such a suit and directing him to appear and defend the same, or judgment would be taken pro confesso against him.

6 At the time your orator is informed said publication was made he was in no situation to see or know of such publication being made in said paper at the time said publication was said to have been made. The State of Tennessee was held by the federal troops, and he was in the country held by the confederate troops, and no newspapers that were published within the federal lines were allowed to be sent into the confederate lines, and that there were no mail facilities from the federal lines to the confederates, and that the only communication had was by a flag of truce, and that was limited to the exchange of prisoners, or something relative to military movements, except as to letters that might be sent by private individuals, and they were allowed to contain nothing but of a private nature as to the health of friends or of news of that character. At the time said publication was made a great civil war was raging between the confederate government
7 and the United States, and martial law existed in the State of Tennessee, and civil courts were only held by the will of military commanders, as your orator is informed. Under these circumstances he submits to your honor whether said publication was sufficient to bring him before said court, or in a state of war as the country was then in, would the statute in regard to publication as to non-residents apply, and would your honor not hold in such cases that in time of war laws were silent, and that your orator has had no day in court, and consequently all of said proceedings are null and void, and cannot affect your orator's interest or title to said property. Even if your orator had known of the existence of said suit he doubts whether, under the military rules, he would have been permitted to communicate with counsel in regard to his interests, or if he had gone to Knoxville to attend to said
8 case he would have been arrested or imprisoned in all probability.

Again, your orator is informed and believes that the notice that did appear in said Brownlow's Knoxville Whig by the clerk and master, D. A. Deaderick, was not sufficient notice for your orator to have been recognized as being in court. He is notified, as he is informed, by said notice to appear at Knoxville "on the first Monday of April next," and said notice is not dated, and your orator, by reading said notice, could not tell whether he was to appear on the first Monday in April, 1865, '6, or '7, or any other year. The only date, as he is informed, is to said

notice is "Jan. 16—4w., p'd $5," and that is made by the printer. By a reference to the papers in the chancery court your honor will see that the levy made by the sheriff was wholly insufficient, so much so that the court permitted the sheriff to amend said return. The amendment is as follows: "No personal property of respondent to be found in
9 my county." After said amendment was made a new publication should have been made as to your orator, which, he is informed and believes, was not done.

Your orator further charges that, by a reference to the decree taken on the 28th day of Oct., 1866, [that] it appears upon the face of the decree that judgment pro confesso was regularly taken, whereas in point of fact, as he is informed and believes, that said decree was pro forma, and that there was no proof taken before said court to establish the fact that due and legal proof had been made as to the publication of your orator being a non-resident, and that he was required to be in court and defend said suit, or judgment would be taken pro confesso against him. Your orator is informed that the law requires said proof to be made, and unless it is done said decree is null and void.

In order to show what great injustice has been done your ora-
10 tor by said unprecedented proceedings he would state that at the time said levy was made that he was the owner of two valuable farms in Knox County, in said State of Tennessee, containing in all from four to five hundred acres, and he was also the owner of another house and lot, adjoining the one sold, of less value. All this property was certainly known to the sheriff, and it was his duty only to levy on so much property as would have paid said debt, and by making a levy on twenty acres of land would have been sufficient to have paid said debt. Your orator further charges that the Hon. Seth J. W. Lucky was then upon the bench and acting as chancelor, and that it was as much his duty to protect his right and interest, and see that no gross injustice was done your orator as it was to see that the complainant had her rights, and that he should not have permitted a decree to have been made ordering the sale of so large an amount of valuable property to be sold
11 to pay so small a debt, and more especially he should not have permitted said property to be sold not subject to redemption. If the said chancelor had permitted said property sold according to the redemption law your orator could have redeemed the same and but slight injustice would have done, and said judgment could have been as well paid as if the property had been sold not subject to redemption.

Your orator has every reason to believe that the said chancelor knew that your orator owned at least one valuable farm in said county and State, and he could with great propriety directed that so many acres of said farm be levied upon as was sufficient to pay said judgment, and then no injustice would have been done your orator.

Your orator does not charge corruption on the part of the said chancelor, but by his want of attention, negligence, or oversight he has permitted great injustice, if not a fraud, to have been practiced upon
12 your orator unprecedented in the legal proceedings of a civilized country, as he is informed.

In order to show what great injustice that has been done your orator by said sale your orator is informed and believes that since the said Vail became the purchaser of said property that he has rented the same for four or five thousand dollars per year, and that since the said Ludlow has been in possession of the same he has rented it from eighteen hundred to two thousand dollars per year.

Your orator further charges that the said Cynthia S. White had no

..ght or authority to have said property sold to pay said debt, neither had the said chancelor any authority to order the sale of the same for the following reasons, as your orator is informed and believes: that on the 21st day of September, 1864, James P. Swan, United States district attorney for the district of East Tennessee, caused said property to be seized as forfeited to the government of the United States, and
13 filed said information in the district court of the United States at Knoxville, on the 10th day of Oct., 1864. (See information and monition, No. 68.)

After said information was filed in said district court the said C. S. White then filed a petition asking your honor's leave for her to intervene as provided by the act of Congress in such cases. The said district court permitted the said White to file her intervention and the said intervention was filed Dec. 14th, 1864, prior to the time said property was sold by the chancery court; the said C. S. White, also gave bond and security in said district court for the prosecution of said intervention.

Your orator charges that, by filing said intervention in said district court, [that] she had virtually abandoned said suit in the chancery court, and that she relied upon having her debt made in the district court, as provided by an act of Congress in such cases; and by said proceedings in the district court it gave the United States a prior lien upon said
14 property, the same as if it had been seized by the United States prior to the issuance of the attachment bill in the chancery court, and that the chancery court had no authority to proceed with the sale of said property and have said sale confirmed after said proceedings had been commenced in the district court of the United States. If said proceedings in said district court had been proceeded with, your orator believes that said property, when condemned, would have sold for more than enough to have first paid said White's judgment and the balance would have gone to the United States, and he would have only had his life estate sold, and, he being an aged man, said property would have soon gone to the benefit of his heirs, some of whom are fatherless and motherless, grand children who are minors, or, by said proceedings in the district court being continued, your orator might have had time and intervened, paid off said small debt or judgment and saved said property from being sold. But notwithstanding said proceedings in
15 the district court, the said White proceeded on in the said chancery court to collect said judgment and had said property sold, and said chancery court confirmed said sale and divested title of said property out of your orator, and vested the same in said Vail not subject to redemption. By such proceedings in the chancery court, great injustice has been done your orator, and also injustice may have been done the United States; and by such proceedings in the chancery court it may be considered a contempt to the honorable district court. A copy of all of said proceedings in the chancery court and district court will be produced upon the trial if required or desired by your honor.

In order to show that the said Vail, who was the purchaser at the chancery sale of said property, doubted the legality of said sale or the validity of his title, your orator is informed that he was offered a much larger price for it than he sold it for if he would guarantee your
16 orator's title or make a warrantee deed for the same. And in order to show that the said Ludlow who purchased the same from said Vail does not stand in the light of an innocent purchaser, without notice, your orator is informed and believes that he desired the said Vail to warrant the title to said property. This he refused to do, but

only made him such a title as he acquired by said chancery sale, and the said Ludlow knew at the time he made the purchase how the said Vail acquired title to the same.

Your orator further charges, as he is informed and believes, that the said Seth J. W. Lucky, who tried and disposed of said case, was not a legal chancelor for said district or any other district in said State of Tennessee, from the fact that he was appointed and commissioned a chancelor by Andrew Johnson, who was then acting in the capacity of a military governor for the State of Tennessee, and he had no right
17 or authority to appoint judges or chancellors, when the constitution of the State of Tennessee provides that judges and chancelors shall be elected by the voters in each judicial district, and therefore any orders, decrees, or sales the said Seth J. W. Lucky might make or did make as chancelor are null and void and of no effect, from the fact that he is not a chancelor de jure.

The premises considered, your orator prays that the said Cynthia S. White, S. Vail, J. R. Ludlow, be made party defendants to this bill, and be required to answer speciffically to all allegations, and that due process will issue to all of said parties; and the said Vail be required to state how much rent he received for said property while he occupied the same; and at what price he rented all of said property per annum; and also state if any of said property was not rented, and, if so, how much; and what he could have rented the same for, and what
18 was his pecuniary condition at the time he made the purchase, and what it consisted in. Also, let the said Ludlow state how much rent he has received for said property, and at what price the same was rented at per annum; and also state if any of said property was not rented, and, if so, how much, and what the same could be rented at by the year or month. Your orator is informed that said Vail now lives in Memphis, Tennessee; he asks that process issue to the marshal of the district of West Tennessee to be served on the said Vail.

Your orator asks that your honor will order an account to be taken as to the amount of rents received by the said Vail and Ludlow, and also as to what part, if any, of said property was not rented, and what would the value of the rents have come to, provided it had been rented; and, upon a final hearing of said case, that said sale and all other proceedings in the chancery court be declared null and void, and that the
19 said deed made from the chancery court to the said Vail be cancelled, and also that from the said Vail to the said Ludlow; and that your orator be placed in peaceable possession of said property, and all of said rents arising from said property be decreed to him. The rents and profits of said house and lot would more than pay the principal and interest of said debt or judgment, and if your honor should not declare said proceedings null and void, your orator asks that an account be taken as to the rents and profits of said house and lot, and that he be allowed to redeem the same after it is ascertained how much, if any, is due after said account is taken, and he be allowed to bring the same into court and tender said amount, provided any should be due; or, if your orator has been mistaken as to his remedy or relief, he prays for any and such other remedy or relief as the nature of the case will admit of.

BROWN, DEADERICK & RAMSEY,
For Compl't.

20 STATE OF NORTH CAROLINA, *Mecklenburg County:*

Personally appeared before me, F. M. Ross, a justice of the peace for said State and county, J. G. M. Ramsey, and made oath that the facts stated in the foregoing bill of his own knowledge are true; and those on information he believes to be true.

J. G. M. RAMSEY.

Sworn to & subscribed before me this 5th day of Sept., 1867.

F. M. ROSS, *J. P.*

STATE OF NO. CAROLINA, *Mecklenburg County:*

I, W'm Maxwell, clerk of the court of pleas and quarter sessions for the county and State aforesaid, do hereby certify that F. M. Ross, before whom the foregoing affidavit was made, is an acting justice of the peace for said county, duly commissioned and qualified, and full faith and credit are due to his official acts as such.

In testimony whereof I have hereunto set my hand and affixed
21 the seal of said court at office in Charlotte the 5th day of Sept., 1867.

[SEAL.] W'M MAXWELL, *C. C. C.*

STATE OF NORTH CAROLINA, *Mecklenburg County:*

I, F. M. Ross, chairman and presiding justice of the court of pleas and quarter sessions of said county, do hereby certify that W'm Maxwell, whose signature appears to the above signature is clerk of said court, duly commissioned and qualified, and that his attestation is in due form.

Given under my hand and seal at office the 5th day of September, A. D. 1869.

F. M. ROSS,
Chairman & Presiding Justice.

Endorsed: O. B., 160. J. G. M. Ramsey v. Cynthia L. White and others. Filed Sept. 23, 1867. M. L. Hall, cl'k.

Prosecution bond.

Know all men by these presents that we, J. G. M. Ramsey, J.
22 C. Ramsey, & Joseph Davenport are jointly and severally held and firmly bound unto Cynthia S. White, S. Vail, & J. R. Ludlow in the penal sum of two hundred & fifty dollars, to be void on condition that the said J. G. M. Ramsey doth with effect prosecute a bill in equity this day filed against the said Cynthia S. White, S. Vail, & J. R. Ludlow in the circuit court of the United States for the district of East Tennessee; otherwise to pay and satisfy all costs and damages that may be awarded for failure.

Witness our hands and seals this 20 day of Sept., 1867.

Attest: J. G. M. RAMSEY, [SEAL.]
By att'y, J. C. RAMSEY.
J. C. RAMSEY. [SEAL.]
JA'S DAVENPORT. [SEAL.]

Endorsed: 160. J. G. M. Ramsey v. C. S. White et al. Filed Sept. 23, 1867. M. L. Hall, cl'k.

Summons.

23 The President of the United States of America to the marshal of the eastern district of Tennessee, greeting:

You are hereby commanded to summon Cynthia S. White & J. R. Ludlow, if they be found in your district, to be and appear before the judges of the circuit court of the United States, in the sixth circuit for the district of East Tennessee, at the court-house in Knoxville, in said State, on the 4 Monday in November next, then and there to answer the bill filed in said court against C. S. White, J. R. Ludlow, and S. Vail, by J. G. M. Ramsey. Herein fail not, and have you then and there this writ.

Witness the Honorable Salmon P. Chase, esq., Chief Justice of the Supreme Court of the United States, this the 3 Monday in May, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States the

[SEAL.] M. L. HALL, *Clerk.*

24 Endorsed: Summons. No. 160. J. G. M. Ramsey versus C. S. White, J. R. Ludlow, & S. Vail. This summons was issued on the 23 day of September, 1867. M. L. Hall, clerk. Brown, Deaderick & Ramsey, attorneys.

Came to hand same day issued, and executed this writ on J. R. Ludlow Sept. 30, 1867, as within commanded, and delivered to him a copy of the bill No. 160. Also, on the 1st day of October, 1867, summoned Cynthia S. White, as commanded, and delivered to her a copy of the bill No. 160.

B. McDONNEL,
U. S. Marshal, &c.

Summons.

The President of the United States of America to the marshal of the western district of Tennessee, greeting:

You are hereby commanded to summon S. Vail, if he be found in your district, to be and appear before the judges of the circuit court of
25 the United States, in the sixth circuit, for the district of East Tennessee, at the court-house in Knoxville, in said State, on the 4 Monday in November next, then and there to answer the bill filed in said court against C. S. White, J. R. Ludlow, & S. Vail, by J. G. M. Ramsey. Herein fail not, and have you then and there this writ.

Witness the Honorable Salmon P. Chase, esq., Chief Justice of the Supreme Court of the United States, this the 3 Monday in May, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the United States the

[SEAL.] M. L. HALL, *Clerk.*

Endorsed: Summons. No. 160. J. G. M. Ramsey versus C. S. White, J. R. Ludlow, & S. Vail. This summons was issued on the 23 day of September, 1867. M. L. Hall, clerk. Brown, Deaderick & Ramsey, attorneys.

Came to hand October 1st, 1867. Executed by reading the within contents to S. Vail, and delivering to him a copy of plaintiff's
26 declaration this 2d day of October, 1869, Memphis, Tenn.

J. M. TOMENY, *U. S. Marshal,*
By J. B. BINGHAM,
Dep'ty U. S. Marshal.

Marshal's fees: service, $2 00; mileage, $28 86.

Judgment pro confesso as to S. Vail.

Be it remembered that at a circuit court of the United States for the district of East Tennessee, began and held at Knoxville, within said district, upon the 4th Monday, it being the 25th day of November, 1867, the following proceedings were had, to wit:

THURSDAY MORNING, *December* 19, 1867.

Court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

J. G. M. RAMSEY
v.
C. S. WHITE, J. R. LUDLOW, & S. VAIL. } Bill in equity, No. 160.

This day came the complainant by his solicitor, & moved the
27 court for judgment pro confesso in this case against the defendant S. Vail. And it appearing to the court that the said S. Vail has been duly summoned by the marshal and served with a copy of the bill in this case more than thirty days previous to the commencement of the present term of this court, and he having failed to plead, answer, or demur to said bill, it is ordered, adjudged, and decreed by the court that the allegations in the bill filed in this case be taken as confessed as to the said S. Vail.

Leave to amend bill.

And afterwards, at the said November term, 1867, of said court, the following proceeding was had, to wit:

TUESDAY MORNING, *December* 31, 1867.

Court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

J. G. M. RAMSEY
vs.
C. S. WHITE, J. R. LUDLOW, & S. VAIL. } Bill.—No. 160.

On motion of complainant, by his solicitor, leave is granted to
28 amend the bill heretofore filed in this case.

Amended bill.

To the judges of the circuit court of the United States for the district of East Tennessee:

James G. M. Ramsey, a citizen of the State of North Carolina, leave of the court having been granted, brings this amended bill against Cynthia S. White & Jacob R. Ludlow, both of whom are citizens of the State of Tennessee, and of the eastern district thereof.

And thereupon your orator complains and says that he heretofore filed his original bill for relief in this honorable court against said Cynthia S. White, said Jacob R. Ludlow, & one Stephen Vail, to declare an alleged sale of real estate void and in the alternative to be permitted to redeem said real estate; and to this bill your orator here refers and hereby adopts the same.

And by way of amendment comp't charges that said alleged sale

29 and purchase of said house & lot by said Vail, and all the proceedings had, or alleged to have been had, in the chancery court of the State of Tennessee, which are alleged to have authorized said pretended sale, are null & void for want of jurisdiction in said court, and because said alleged decree was obtained by fraud. Said proceedings in said chancery court were instituted & had therein when a public war existed by parties within the lines and under protection of the military power, by attachment against compl't, who was known to be one of the enemy of the party governing by arms the locality of the court, and when it was known compl't could not have notice of the suit, could not appear at the court, could have no communication with others at place of the court, and compl't is advised that it is an absurdity to call such proceedings a suit. The said proceedings exhibit no legal grounds for issuing an attachment. That compl't "had left the State" is no ground of attachment, and the bill only charges that
30 compl't has "left the State," or "conceals," &c.; that is, that one or the other fact is true. The said proceedings do not show that the said Cynthia S. White had any "just claim;" they only charge that she "holds a bond." Your orator is advised that there was no authorized or legal term or sitting of said chancery court at the time the said alleged sale is attempted to be confirmed, so that there has been no legal confirmation of said sale.

Your orator also charges that said alleged decree for sale of said property was obtained by fraud and circumvention, and that the same is so oppressive and excessive, and that not only without just or legal benefit to compl't therein, but positively to his injury; that it would be void—is void—for this reason, patent on face of the proceedings in the case. It may be that the only object which the said Cynthia S. White and her agent George M. White had in view was to enforce their alleged bond, and it may be that the chancelor passed the orders and decrees
31 in said proceedings as matters of course, as such ex parte causes are usually controlled and instituted. Coruption is not therefore charged on either, yet the result is a fraud on your orator and equally as injurious as positive corruption. Your orator is informed & charges that neither comp't in said proceedings, Cynthia S. White, or her agent George M. White, asked, or authorized any one to ask, that said sale should be ordered to be made on a credit without the privilege or right of redemption, and that the said chancelor did not so order it of his own thought and head, and the same could subserve no interest of any party in said proceeedings, but was the denial of a right & justice by delay to compl't in said proceedings, and was only oppression & persecution as against your orator; but the same was put into said alleged decree to serve the interests of some outside & strange persons or person. The result of the property sold for a single, at farthest of two months, would have paid the alleged debt, long past due, which
32 appears to have been directed to be sold on a credit of six months. If your orator should be mistaken in the above & foregoing view of the case, and said sale shall be held to be valid, then your orator is advised and he insists that in any event he is entitled to redeem from the purchaser and his assignee or vendee said house & lot. The said Vail obtained possession of said house & lot soon after his alleged purchase thereof, and has received large rents, sufficient to redeem the same, or he could have, and ought to have had, profits to this sum. And since the said property came into possession of said Ludlow he has received, or should have received, a sum large enough to make redemption. And the defendents are expressly required to state in their

answers when said Vail took possession, & how much rent he received, & ought by due diligence to have received; when def't Ludlow came into possession, and how much rent he has received, or ought to have received, up to filing this amended bill. And these rents & profits
33 of said property your orator hereby tenders to said Ludlow, and offers in redemption of his said property sufficient to redeem the same. The surplus after paying said alleged debt of the sale of said property has never been received by compl't, but has been ordered to be retained at instance of strangers, parties who had a common solicitor, until a contested litigation pending can decide whether your orator has been guilty of malfeasence or breach of duty as trustee, and thus work out an indebtedness of your orator to those stranger parties, on which to rest and uphold another attachment, said to be levied on the said surplus; all of which is, as compl't is advised, [is] illegal & void for many reasons, but which as matters of fact it is charged goes far to explain how so strange a decree was made in said alleged decree for sale, and whose interests the same was thus illegally & fraudulently to subserve.

Said property is still subject to redemption, because the same is
34 not described and set forth in face of decree as is required to be done before it could have been ordered to be sold without right of redemption. The complainant in said attachment proceeding did not, in fact, ask that the property be sold on a credit & not subject to redemption, and the recital of these facts were fraudulently & illegally incorporated into said decree, not for interest, but to injury & against right of all parties to said proceeding.

Your orator further shows that said Jacob R. Ludlow had actual knowledge of all the facts hereinbefore charged before he purchased said property; that the said Ludlow, in making said purchase, was acting in his then adopted vocation or selected routine of speculation in buying up rights & titles for less than full value when right & title of his vendor or seller rested on actions or proceedings against rebels during or shortly after the war, and taking his chances & risks as to titles.
35 And the truth of the foregoing charges are on the face patent on the title of his immediate vendor, and whether actually known to him or not he is bound by them and in no better condition than said Vail. And as to alternative right of redemption set up on the offer & tender in this amended bill, your orator is advised that his right is full & clear against said Ludlow with or without fraud, validity or invalidity, of purchase, decree, sale, &c., notice actual or constructive, and he insists upon the same And your orator also insists upon full accounts of all rents & profits, and that def't Ludlow & said Cynthia S. White be held chargeable therefor, whether received or should have been received by said Vail or said Ludlow. Your orator shows that said Stephen Vail, who is the alleged purchaser of said house & lot, and the vendor of def't Ludlow, is not a citizen of the State of Tennessee, but is a citizen of the State of Illinois, having removed there since filing the original bill,
36 and he is not made a party hereto because he is not an inhabitant of the State of Tennessee, and process cannot be served upon him, but if he will voluntarily appear, or if he should come within the district of East Tennessee, then your orator prays that he shall be held to be a party, and that process, if necessary, may issue & be served, returnable to second rule day after its issuance.

The premises considered, your orator prays that said Cynthia S. White & Jacob R. Ludlow, and, contingently as above, the said Stephen Vail, be made parties defendents to this amended bill; that process issue with copies hereof, if necessary, and that defendents be required to

answer all the material allegations of this bill on or before April rules next; that on the hearing of said original & this amended bill the same will be taken & held as one bill; that said proceedings in and under said State chancery court shall be declared null & void, and the in-
37 cumbrance & cloud created by them on your orator's title be removed, and all vexatious use of said proceedings be restrained; and that all proper accounts be taken and defendents held chargeable with all rents received by, or which should have been received, either by said Vail or Ludlow, but if said sale shall be held valid then your orator's alternative prayer is that he may have redemption of said property, and to this end that accounts of all rents received, or which should have been received, either by Vail or Ludlow, be taken and sufficiency thereof be appropriated to compl't redemption and balance decreed to your orator; that possession of said house & lot be decreed to your orator; and that a receiver be appointed.

Your orator also prays as in and by his original bill he has already prayed; and all other & further relief consistent with good conscience & the premises, may it please your honor to grant to your orator; and as in duty, &c.

BROWN, DEADERICK, SNEED,
Sol's for Compl't.

38 Endorsed: 160. Amended bill. J. G. M. Ramsey vs. Jacob R. Ludlow & others. Filed 3rd Feb'y, 1868. M. L. Hall, clerk.

Summons for Vail to answer amended bill.

The President of the United States of America to the marshal of the eastern district of Tennessee, greeting:

You are hereby commanded to summon S. Vail, if to be found in your district, to be and appear before the judges of the circuit court of the United States, in the sixth circuit, for the district of East Tennessee, at the court-house in Knoxville, in said State, on the 1st Monday in Sept. next, then and there to answer the amended bill filed in said court against the said S. Vail, J. R. Ludlow, & Cynthia S. White, by J. G. M. Ramsey. Herein fail not, and have you then and there this writ.

Witness the Honorable Salmon P. Chase, esq., Chief Justice of the Supreme Court of the United States, this the 3rd Monday in May,
39 in the year of our Lord one thousand eight hundred and sixty-eight, and of the independence of the United States the

[SEAL.] M. L. HALL, *Clerk.*

Endorsed: No. 160. Summons to answer amended bill. J. G. M. Ramsey versus C. S. White et al. This summons was issued on the 25 day of July, 1868. M. L. Hall, clerk.

Came to hand July 28, 1868.

J. P. JACK, *D. U. S. M.*

Executed by summoning S. Vail, as commanded, and delivered him a copy of the declaration August 6, 1868.

J. P. JACK, *D. U. S. M.*

Plea and answer of Ludlow.

The plea and answer of Jacob R. Ludlow to the bill of complaint filed against him and others by J. G. M. Ramsey in the circuit court of the United States for the eastern district of Tennessee, sitting at Knoxville, in said State.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's said bill of complaint mentioned and contained to be true in such sort, man-
40 ner, and form as the same are therein set forth and alledged, for plea to the whole of said bill says that as to the house and lot on the east side of Gay street, in the town of Knoxville, East Tennessee, described in said bill, an attachment bill was filed by one Cynthia S. White in the chancery court at Knoxville, in the State of Tennessee, on the 18th day of September, 1863; that in her said bill the complainant alledged that J. G. M. Ramsey, who is the complainant in this suit, was indebted to her by bond dated July 17, 1860. payable six months after date, with lawful interest from the date, for three hundred dollars, and that said Ramsey had left the State, or so concealed himself that the ordinary process of law could not be served upon him; that in pursuance of the prayer of said bill an attachment was lawfully issued in said cause, tested the first Monday of April, 1863; that said attachment was duly levied by W. H. Swan, sheriff of Knox County, on the
41 said house and lot, on the 25th day of September, 1863; that publicatiðn was duly made in said cause, and said chancery court acquired jurisdiction thereof; that a judgment pro confesso was regularly taken, and such steps had in said cause that said house and lot were sold at public sale, by the clerk and master of said court, on the 3 January, 1865, to one S. Vail, at the price of fifty-one hundred dollars; that said sale was confirmed by a decree of said court, pronounced on the 5th January, 1865; that the purchase-money was fully paid before the filing of complainant's bill; that said house and lot were afterwards conveyed to this respondent by said Vail by a deed of conveyance bearing date the 9th March, 1866, and registered in the register's office of Knox County, Tennessee, on the 12th March, 1866; that, pursuant to the prayer of this defendant, a writ of possession was issued in said cause, and he was placed in possession of said property on the 13th July, 1866, by M. D. Bearden, sheriff of Knox County; all of which will more fully appear from
42 a transcript of the record in said suit of Cynthia S. White against J. G. M. Ramsey, hereto annexed, marked Exhibit A, and from the said deed from said Vail to this defendant, hereto annexed, marked Exhibit B; which exhibits this defendent prays may be taken as parts of this plea.

And the said defendant avers that the said chancery court at Knoxville had jurisdiction of said cause; that its proceedings have not been appealed from, reviewed, or reversed; that they remain in full force and effect; and that this honorable court has no jurisdiction, power, or authority to review, reverse, or annul said proceedings; & that the jurisdiction and authority of the said chancery court were final and conclusive in regard to the title to said property.

Therefore this defendant doth plead and rely upon said proceedings in bar of the complainant's bill, and prays the judgment of this honorable court whether he should be compelled to make any further answer to said bill, and prays to be be hence dismissed with his reason-
43 able costs and charges in that behalf most wrongfully sustained.

Not waiving the benefit of this plea, but fully insisting upon

the same, this respondent, answering, says he admits it to be true that complainant was, at one time, the owner of said house and lot, as charged in his bill, but denies that the same is worth from eight to ten thousand dollars; he also admits that complainant was indebted to Cynthia S. White, and that the proceedings were had in the chancery court at Knoxville which are described in said bill, and more fully and accurately set forth in respondent's said plea; respondent is informed and believes, and therefore admits, that complainant left Knoxville a short time before the federal troops arrived in September, 1863; it may be, as he alleges, that his object was not to avoid the payment of any debt he might owe, but it is somewhat singular that complainant does not state what his real object was in leaving at that particular
44 juncture; from information, respondent believes that the complainant was a prominent and active leader in the late rebellion, and that he left Knoxville, on the approach of the federal army, because he was in favor of the success of that cause and hostile to the government of the United States, and because he desired to render "aid and comfort" to those who were engaged in armed hostility against said government.

And this respondent is advised and will insist that, as the complainant fled from the State of Tennessee for the purpose of linking his fortunes to the destiny of the southern confederacy, he cannot now take advantage of his own wrong and lawfully complain of the proceedings in said suit, when, if he had no notice of them, in point of fact, it was by his own voluntary acts that he placed himself in a condition not to receive notice. He knew, or is presumed to have known, the attachment laws of Tennessee, and, being a gentleman of more than ordinary intelligence, well knew that by fleeing from the State and abandoning his
45 property he left it subject to the attachment laws of the State. Whether the complainant frequently offered to pay said note to G. M. White, the agent of Cynthia S. White, this respondent doth not know, but he thinks it quite probable, from the general course of dealing during the late civil war, that the offer was to pay confederate treasury notes, and that if there was any refusal to receive them it was because the agent was unwilling to receive that species of currency.

Respondent is not informed, otherwise than by the record, as to what transpired between the said George M. White, agent, and his counsel, or whether the counsel was expressly authorized to cause the said property to be sold without the right of redemption. The decree, set out in Exhibit A, recites that, "on application of complainant, it is ordered that the sale be made free from the right of redemption." And respondent is advised, and doth earnestly insist, that it is to be presumed that counsel had a general authority, without any explicit instructions,
46 to ask for such a decree as he supposed would best promote the interests of his client; that the complainant and all other persons are estopped by the recital in the record; and that this honorable court has no jurisdiction or authority to inquire into the truth of the recitals contained in the decree of a court of competent jurisdiction, or to grant a new trial or rehearing of a cause determined by a State court.

Respondent has no personal knowledge as to the nature of the publication in Brownlow's Whig, or as to whether the complainant had actual notice that said suit was pending; but the said decree of 29th Octo., 1864, expressly recites that "judgment pro confesso was regularly taken in the cause," and respondent is advised, and most respectfully insists, that when a fact is stated in the judgment or decree of a court, it is to be presumed that it was established by competent and proper evidence;

that this presumption would exist, even in a higher court of the
47 same State, upon appeal or writ of error, unless the fact were shown to be otherwise in a bill of exceptions; and that said decree cannot be directly or collatterally assailed in this honorable court.

Respondent believes, and therefore admits, that after the federal army took possession of East Tennessee, all communications with persons being or residing within the rebel lines was measurably cut off or restricted in the manner described in the bill; but whether the complainant was in a condition not to receive notice, or did not receive notice of the pendency of said suit against him, before a final decree was pronounced, this respondent doth not know; and, if such testimony can be properly heard in this cause, which is not admitted, he calls for full proof. As already stated, the decree confirming the sale to said Vail was pronounced on the 5th Jan'y, 1865. It is a fact, of which this respondent is advised this honorable court will take judicial notice, that the rebel army surrendered in April, 1865, and that the non-intercourse
48 regulations mentioned in the bill were, almost immediately afterwards, rescinded or abrogated; and respondent is advised and respectfully insists, that the complainant shows no good reason why—as he knew he was indebted when he left the State, and is presumed to have known that his property was subject to attachment—he did not make diligent inquiry to ascertain what had been done in his absence, or why he did not, within twelve months after the decree was pronounced, shew good cause to the chancelor, and apply to have the same set aside under section 3529 of the code of Tennessee. The bill of Cynthia S. White expressly charges that said "Ramsey has left the State, or so conceals himself that the ordinary process of law cannot be served upon him," and the reasons assigned by complainant for not making his defence might, perhaps, have been appropriately considered in that tribunal upon such an application, while, as respondent is advised, they cannot be considered by your honor, for the reason that this
49 honorable court has no revisory power over the decisions of any State tribunal.

Respondent is further advised that, under section 4489 of the code of Tennessee, the chancelor had power to order the sale without the right of redemption, and that this honorable court has no jurisdiction to inquire whether the power was rightfully exercised, and is bound to presume in favor of the jurisdiction of another and different tribunal; that it was so done, and that, if there was any error in the action of the chancelor, it could only be corrected by the State tribunals themselves, in the mode prescribed by law.

Respondent is also advised that it is not necessary for him to answer in detail all the allegations in the bill as to the value of the property sold. The record shows, and he cheerfully admits, that the property was worth greatly more than the debt due to Cynthia S. White, but there is an express remedy provided by the laws of Tennessee for such a case in section 3043 of the code, and it was the business of the
50 complainant to attend and furnish a plan by which so much of the land only should be sold as would have been sufficient to satisfy the debt, and, failing to do so, the officer was expressly authorized to sell the land without any division, by the very words of the statute. By the provisions of the code, section 3534, respondent is advised that a good title was vested in the purchaser, and if the sale of the land was wrongful, the complainant had his remedy, within twelve months, upon the attachment bond.

Respondent is not informed of any military rule which prevented the

complainant from communicating with counsel in regard to his interest, or which would have caused the complainant to be arrested or imprisoned if he had gone to Knoxville to attend to said cause, and he calls for full proof, if such a state of facts existed.

Respondent does not admit that the sheriff was permitted to amend his return, so as to add the words "no personal property of re-
51 spondent to be found in my county." The said transcript of record, marked A, shows that, on the 27th Octo., 1864, leave was granted to the defendant to amend his return, and that an amendment was made, but what was its nature is not stated. Respondent doth not admit that an amendment thus made was sufficient to make a new publication necessary, as insisted by complainant, especially in view of the liberal practice allowed by the code in section 3477.

Respondent does not feel that it is necessary for him to vindicate Chancelor Lucky against the aspersions cast upon him in the bill, or to answer and say whether there was any want of attention, negligence, or oversight on his part. As a sworn officer of the law he is to be presumed to have done his duty. Whether he had actual personal knowledge of the fact that the complainant was the owner of the several tracts of land and town lots in the bill mentioned, this respondent doth not know, but he is advised that among the many new discoveries
52 which have been made in legal science in the State of Tennessee since the late civil war, the novel idea that a judge is to decide causes, not upon the law or evidence, but upon his own personal knowledge, is not the least remarkable.

Respondent has no knowledge of the fact, and, therefore, does not admit that said Vail, after he became possessed of the property, rented it for four or five thousand dollars per year, or that respondent, since he has been in possession, has rented it at from eighteen hundred to two thousand dollars per year; but if such were the fact, respondent is advised that in can in no way affect the validity of his title, as public confidence in judicial sales would be utterly destroyed if they are to be set aside because the purchaser gets a good bargain, or his property is enhanced in value after he buys it. What rent said Vail received
53 respondent doth know. Respondent obtained possession soon after his purchase from Vail, and retained possession until he was turned out by order of the district court of the United States for the eastern district of Tennessee, in the confiscation case hereinafter mentioned. He remained out of possession about one month, and during that time complainant or his agent received the rents.

Respondent has rented the storehouse during the whole time he had possession for one hundred dollars per month. He could not find renters for the rooms above it during the whole time. The second story was generally unoccupied, and the third story was rented about three-fourths of the time for twenty-five dollars per month. Respondent, upon information, admits that the proceedings were had in the said district court of the United States for the eastern district of Tennessee, described as commencing with information No. 68, filed on the 10th day of October, 1864; and that the said Cynthia S. White was permitted to intervene in said cause as alleged in the bill, but it is not admitted that her intervention had the effect insisted upon by complainant. The
54 object of said intervention, as respondent is informed, was not to abandon her suit in chancery, but to insist upon her prior levy of the attachment made on the 25th Sept., 1863, almost a year before the seizure made in behalf of the United States; and how she could lose this prior right by attempting to assert it in the said district court, or how the

chancery court, which had first assumed jurisdiction over the property, could lose it, this respondent doth not know; and he has yet to learn how the seizure made in behalf of the United States on the 21st Sept., 1864, could relate back to and destroy an attachment levy made on the 25 Sep., 1863.

Respondent has been informed, and believes, that the complainant pleaded the President's pardon and thus obtained the release of his property, and an order to restore him to the possession as it was when the United States seized it, but he is advised that this order could in no way affect the jurisdiction of the chancery court, previously acquired over the property by means of said attachment levy; and how this re-
55 spondent, who was not a party to said chancery suit, and only became a quasi party by becoming a purchaser from the purchaser at the chancery sale, could commit, or did commit, any contempt of the said district court of the United States, by asking the chancelor to complete the sale by placing him in possession, this respondent doth not know. The record will show that a writ of possession was awarded in favor of Vail, the purchaser at the chancery sale, before any writ was awarded from the said district court, and, in asking the chancery court to assert its prior jurisdiction over the property, by awarding a second writ of possession, this respondent had no intention to commit a contempt of the said district court, but merely resorted to that remedy which he was advised was necessary to assert his right.

By reference to the deed marked Exhibit B, from Vail to respondent, it will be seen that it was executed in consideration of five thousand dollars, so far as it conveys the property involved in this cause;
56 that the conveyance is in fee-simple, and that there is a covenant of warranty of title, and, as respondent supposes, this is a sufficient answer to the allegation in the bill that Vail "refused to warrant the title, and only made such a title as he acquired by the chancery sale." Respondent states that he purchased said property for the valuable consideration stated in the deed, and has fully paid the same, and paid it before complainant's bill was filed.

As to the allegation in the bill that the Hon. Seth J. W. Lucky, who tried the cause, was not a "legal chancelor," this respondent is advised that there is no provision in the Constitution of the United States, or any act of Congress, which confers upon this honorable court the right to determine by what authority a person acting in the character of a State judge assumes so to act, and that whether Chancelor Lucky was a judge de jure or de facto, his judgments are binding upon all other tri-
57 bunals, until reversed by the supreme court of the State. Respondent is informed and believes, however, that if this question can be agitated here it cannot avail the complainant anything, as Judge Lucky was lawfully re-elected by the people to the office of chancelor, in the year 1862 or 1863, for the term of eight years, and was duly commissioned by Isham G. Harris, Governor of Tennessee, in the mode prescribed by law, and that said Harris himself held the office of governor under an election held in conformity to the constitution and laws of the State of Tennessee. Respondent is further informed and believes that when Chancelor Lucky pronounced the decrees in said cause he held his office also under a commission from Andrew Johnson, military governor of Tennessee, and that he was thus a lawful judge, not only under the election during the war, but under the authority of the United States while military jurisdiction was held over the State by the national authority, and that he was, in these two aspects, pre-eminently a judge de jure, but if he were not, there can be no question that he was a

58 judge de facto, and that his official acts cannot be collaterally attacked in the manner attempted in the bill.

Respondent has already answered as to the rents received by him for the property; but having overlooked the interrogatory as to what that part of the property not rented could be rented by the year or month, he states that he was at all times willing to rent the second and third stories when they were not rented, and that, not having succeeded in renting them, he takes it for granted that there was no demand, at that time, for such property, and that the rents were worth nothing.

And now, having fully answered so much of the bill as he is advised it may be in any way material for him to answer, this respondent prays to be hence dismissed with his reasonable costs.

THO'S A. R. NELSON, *Solicitor.*

Circuit court of the United States, district of East Tennessee, in equity.

This day personally appeared before me, M. L. Hall, clerk of
59 said court, Jacob R. Ludlow, the defendant named in the foregoing answer, and made oath, in due form of law, that the facts stated in the foregoing plea and answer are true to the best of his knowledge, information, and belief.

J. R. LUDLOW.

Sworn to and subscribed before me this 2 December, 1867.

M. L. HALL, *Clerk.*

Endorsed: Plea and answer of Jacob R. Ludlow. Filed Dec. 2d, 1867. M. L. Hall, clerk.

Transcript from chancery court at Knoxville.

Transcript of the record in this case in the chancery court at Knoxville of Cynthia S. White vs. J. G. M. Ramsey.

Pros. bond.

State of Tennessee, chancery court, at Knoxville.

Know all men by these presents that we, Cynthia S. White and George M. White are held and firmly bound unto J. G. M. Ramsey in the penal sum of two hundred and fifty dollars; to the payment of which, well and truly to be made and done, we bind ourselves,
60 our heirs, &c.; yet void on condition that the above-bound C. S. White shall prosecute, with effect, a bill in equity this day filed by her in the chancery court at Knoxville, Tennessee, against the said Ramsey, or, in case of failure therein, shall well and truly pay and satisfy all costs and damages that may be degreed against her in the prosecution or at the final hearing thereof; otherwise to be and remain in full force and virtue.

Witness our hands and seals this 18th day of Sept., 1863.

CYNTHIA S. WHITE, [SEAL.]
By GEO. M. WHITE, *Agent.*
GEO. M. WHITE. [SEAL.]

Attach't bond.

State of Tennessee, chancery court, at Knoxville.

Know all men by these presents that we, Cynthia S. White and Geo. M. White, are held and firmly bound unto J. G. M. Ramsey in the penal sum of six hundred dollars; to the payment of which, well and truly to be made and done, we bind ourselves, our heirs, &c.; yet void on condition that the above-bound C. S. White shall prosecute, with effect, a bill in equity, this day filed by her in the chancery court, at Knoxville, Tennessee, against the said Ramsey, or, in case of failure therein, shall well and truly pay and satisfy all costs and damages that may be awarded against her for wrongfully suing out the attachment granted her in this case; otherwise to be and remain in full force and virtue.

Witness our hands and seals this 18th day of Sept., 1863.

CYNTHIA S. WHITE, [SEAL.]
By GEO. M. WHITE, *Agent.*
GEO. M. WHITE. [SEAL.]

Attached *Orig'l & attachment bill.*

To the Hon. Seth J. W. Lucky, chancelor, sitting in chancery, at Knoxville:

Your orator, Cynthia S. White, a citizen of Knox County, respectfully represents unto your honor that he holds a bond on J. G. M. Ramsey, dated July 17th, 1860, payable six months after date, with lawful interest from date, for three hundred dollars, a copy of which note is hereunto appended, marked Exhibit A, the original of which shall be produced in the final hearing of this cause. Your orator shows that the said Ramsey has left this State or so conceals himself that the ordinary process of law cannot be served upon him. He was the owner of a considerable estate, both real and personal, in Knox County.

The premises considered, your orator prays that the said J. G. M. Ramsey be made a party defendant to this bill; that process of subpœna & attachment issue, and that a sufficient amount of said estate be attached to satisfy your orator's demand. She prays for publication, and, on the final hearing, she prays for the sale of said property, and for an account, if necessary. This is the first application for an attachment in this cause.

STATE OF TENNESSEE, *Knox County:*

This day personally appeared before me Geo. M. White, agent of Synthia S. White, who made oath, in due form, that the facts stated in the foregoing bill are true, to the best of his knowledge & belief.

GEO. M. WHITE.

Sworn to & subscribed before me this 18th day of Sept., 1863.

D. A. DEADERICK, *C. & M.*

Exhibit "A."

$300 00. Six months after date, for value received, I promise to pay Synthia S. White, or order, three hundred dollars, with lawful interest from date.

Witness my hand and seal this 17th day of July, 1860.

J. G. M. RAMSEY. [SEAL.]

In't paid up to 17th January, 1863.

Attachment.

State of Tennessee, chancery court, at Knoxville.

To the sheriff of Knox County, greeting:

Whereas Synthia S. White has this day filed her bill in said
64 court against J. G. M. Ramsey, setting forth, among other things, that she holds a bond on the defendant, J. G. M. Ramsey, for three hundred dollars; that said Ramsey has left this State, or so conceals himself that the ordinary process of law cannot be served upon him; that he was the owner of considerable real estate, both real and personal, in Knox County, and affidavit having also been made, in writing, and bond given as required by law in attachment cases, and complainant having obtained legal authority for an attachment in this case, you are hereby commanded to levy this attachment on the said property of said Ramsey, or on so much of it as will satisfy complainant's demand, and such estate, unless replevied, so to secure that the same may be liable to further proceedings thereon at a court to be holden at the court-house in Knoxville on the first Monday of October next, when and where you will make known how you have executed
65 this writ.

Witness D. A. Deaderick, clerk and master of said court, at office in Knoxville, the first Monday of April, 1863.

D. A. DEADERICK,
Clerk & Master.

Came to hand Sept. 21st, 1863.

W. H. SWAN, *Sh'ff.*

Levied this attachment on all the wright, title, & interest that J. G. M. Ramsey has in and to the block & lot known as the Deaderick Block, on the east side of Gay street, in the city of Knoxville, Knox County, Tennessee. No personal property of respondent to be found in my county.

Sept. 25, 1863.

W. H. SWAN, *Sh'ff.*

Master's report.

Chancery court, Knoxville.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

In this case a decree was made at the October term, 1864, of said court, directing the clerk & master to sell the tenement on Gay
66 street, belonging to said Ramsey, and mentioned in the decree.

And the clerk & master, having given the required notice as to time and place of sale, proceeded to sell the said property, being about half the front of the lot described in the bill as having been conveyed by John Crozier to said J. G. M. Ramsey, which was fifty feet; the sale now made being the storehouse and lot on which it stands, the front occupying about twenty-four feet four inches, running back ninety feet, being the northern tenement of the block built jointly by said Ramsey and D. A. Deaderick, adjoining that now owned by George

Mayo, which sale was made on the 3rd day of January, 1865, when S. Vail became the purchaser at the price of fifty-one hundred dollars, his having been the highest and [and] last bid therefor, and duly entered into bond at six months, in the sum of five thousand and twenty-five dollars, having paid down towards the cost of the cause
67 the sum of $75 00, P. H. Cardwell and J. C. L. Bradley being securities in the note.

January 4th, 1864. Respectfully submitted.

D. A. DEADERICK, *C. & M.*

Rules from the rule docket.

CYNTHIA S. WHITE }
vs. }
J. G. M. RAMSEY. }

Walcker. Pros. bond, $250. No. 1412. Geo. M. White, sect. Attachment bond, $600. Geo. M. White.

1863, Sept. 18.—Orig'l & attachment bill filed this day.
" " " Attachment issued to Knox, & left in Sh'ff Swan's office.
" " 25.—Attachment returned, executed by levying, Sept. 25, '63, on the tenement of the Deaderick & Ramsey block of buildings, on Gay street, belonging to respondent.

1864, *Jan'y rules.—Order of publication.*

The defendant, J. G. M. Ramsey, having left the State of Ten-
68 nessee, as shown in the bill, it is ordered that publication be made for four successive weeks in the Knoxville Whig, notifying said defendent to appear before the chancery court, at Knoxville, on the first Monday of April next, then and there to make his defense to the bill, or the same will be taken for confessed, and set for hearing ex parte Jan. 16, 1864.

Oct. term.

Decree vs. Resp't for $332 00, & costs, & C. & M. to sell resp't's storehouse on Gay street, to pay the debt. (E., p. 647.)

Oct. 28.—Copy of a deed to lot on Gay street filed—Jno. Crozier to J. G. M. Ramsey, by G. M. White.
Nov. 23.—Adv'rt'd in Knoxvl. Whig to sell house & lot Jan'y 3, 1865.

1865, Jan'y term.

Report of sale confirmed, and title to house & lot vested in S. Vail, the purchaser. (E., p. 686.)

Jan'y 3.—House & lot sold, and report of sale filed.
" 30.—Writ of possession issued and handed to S. Vail, the purchaser of the storehouse.
69 April 3.—Writ of possession returned not executed, prevented by the military.

April 5.—Copy of order issued, to be served on Pace & Co., handed to Dep. Sh'ff Gibbs.

" " Order returned by direction of Baxter, sol'r of Vail, purchaser of the lot.

" ' Order made for J. R. Pace to show cause why they do not vacate the house occupied by them, & C. & master to issue process, &c.

April term.

Process ordered to issue summoning Pace & Co., who occupy the storehouse sold in this case, to appear before court and answer for contempt. (E., p. 733.) Process issued but ordered by purchaser's sol'r to be recalled. C. & master to pay back-taxes, half of $592 67. (E., p. 819.)

1866, Jan'y term.

Order made that C. & master pay all taxes due on the house & lot at the date of the sale. (F., pa. 99,) taxes for 1865.

July 13.—Petition of J. R. Ludlow filed asking for writ of possession; which was granted by Judge Rodgers, and writ ordered to issue.

70 July 13.—Writ of possession issued to put J. R. Ludlow in possession of the storehouse & lot sold to S. Vail.

July term.

C. & master to loan the fund attached by complainants in Brownlow & Ross v. Lyon & Ramsey, which see.

Order of court as to possession, &c.

Chancery court, Knoxville.

CYNTHIA S. WHITE }
vs. }
J. G. M. RAMSEY. }

It being suggested to the court that, at a sale made by authority of this court on the 3rd day of January, 1865, S. Vail became the purchaser of a storehouse owned by the respondent, J. G. M. Ramsey, under and in pursuance of the decrees of this court in this cause, which storehouse is situated and being on the east side of Gay street, in Knoxville, and is now, and has been for several months, in the possession of J. R. Pace & Co., a firm composed of J. R. Pace, W. C. Kyle, J. R. Branner, and John Blevins; and it being further suggested that,

71 at the January term of said court, a decree was rendered by this court vesting the title of said storehouse in the said S. Vail, and ordering a writ of possession, if necessary, to put him in possession of the same; and it further appearing that a writ was duly issued to the sheriff of Knox County, commanding him to put the said Vail into possession of said premises, and make return of said process to this court, and make known how he had executed the same, and the sheriff having returned "that he proceeded to the house for the purpose of executing this writ and found some three or four negro soldiers

there with their arms," and that he was "informed by J. R. Pace, the occupant of the house, that Capt. Whitman had placed them there to prevent this writ from being executed," consequently he "made no further attempt to execute" said writ; and the court, being moved by said Vail's solicitor, doth order that the said J. R. Pace, W. C. Kyle, Jno. R. Branner, and Jno. Blevins appear at 9 o'clock a. m. on Thursday, the 6th inst., before this court, at the court-house in
72 Knoxville, to show cause, if any they have, why they shall not be ordered to vacate said premises under penalty of attachment for contempt, in case they refuse to do so; it is further ordered that a copy of this order [to] be furnished by the master to the sheriff of Knox County, to be served upon said parties by said sheriff, of which fact he shall make due return:

You, therefore, the sheriff as aforesaid, are hereby commanded to serve upon the parties above named the foregoing order; and make due return how you have executed said process.

Witness D. A. Deaderick, clerk & master of said court, at office in Knoxville, the first Monday of April, 1865.

D. A. DEADERICK, *C. & M.*

Premises delivered up without service of this process.

D. A. D., *C. & M.*

Writ of possession.

State of Tennessee, chancery court, at Knoxville.

73 To the sheriff of Knox County, greeting:

Whereas S. Vail, at a sale made by authority of said court, on the 3rd instant, became the purchaser of a storehouse owned by Doct. J. G. M. Ramsey, sold by decree of said court in the case of Cynthia S. White vs. J. G. M. Ramsey; and whereas, at the January term 1865 of said court, a decree was made vesting the title to said storehouse in the said S. Vail, and ordering a writ of possession to issue, if necessary:

You, the sheriff as aforesaid, are hereby commanded to put the said Vail into peaceable possession of the said storehouse, situate on the east side of Gay street, and now occupied by J. R. Pace & Co., and make return to the April term 1865 of said court, when and where you will make known how you have executed this writ.

Given under my hand at office in Knoxville this 30th day of January 1865.

D. A. DEADERICK, *C. & M.*

74 Came to hand day issued. I proceeded to the house for the purpose of executing this writ, and found some 3 or 4 negro soldiers there with there arms, and was informed by Mr. J. R. Pace, the occupant of the house, that Capt. Whitman had placed them there to prevent this writ from being executed, consequently I made no further attempt to execute this writ.

A. S. HUDIBURG, *D. Sh'ff.*

(This paper should have preceded the one copied before it.)

Petition for writ of possession.

State of Tennessee, chancery court, county of Knox.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

To the Hon. Samuel R. Rodgers, holding the chancery court at Knoxville:

The petition of J. R. Ludlow respectfully sheweth unto your honor that in the above-entitled cause an original and attachment bill was filed Sept. 18th, 1863, to enforce the payment of a note of hand held
75 by said complainant, Cynthia S. White, against said def't, J. G. M. Ramsey; that upon the same day an attachment was duly & regularly issued out of this hon. court, which, upon the 25th day of Sept., 1863, was duly levied upon a house & lot on Gay st., adjoining Mayo, as the property of defendant; that the bill in said cause was duly taken as confessed, after the required publication; and that, on the 26th day of Oct., 1864, a decree was made by this hon. court, ordering said house and lot to be sold on a credit of six months; that in obedience to said decree, on the 3rd day of January, 1865, the clerk and master of this court proceed to sell said house & lot, having given the required notice, and that at said sale S. Vail became the purchaser for the sum of five thousand one hundred dollars, his being the highest, last, & best bid for the same; that afterwards, to wit, on the 5th day of January, 1865, the report of the clerk & master of said sale was, in all things, confirmed, & it was further ordered, adjudged, & decreed by this hon. court that all the right, title, & interest which the said Ramsey
76 had in & to said property should be divested out of said Ramsey, & vested in said Vail, and that a writ of possession should issue to put said Vail, the purchaser, in the quiet and peaceable possession of the same; that afterwards a writ of possession did issue, and said Vail was put in the quiet & peaceable possession of said property; that on the 9th of March, 1866, your petitioner purchased said property of said Vail, and was put in the possession of the same. Your petitioner further shows unto your honor that some time in October, 1864, as your petitioner is informed and believes, James P. Swann, then district attorney for the United States, filed an information against the said property, seeking to have the same and forfeited to the United States; that your petitioner was not aware for a long time that such information had been filed, and that as soon as he became aware of the fact, and that it was necessary for him to appear in the United States court to protect his rights, he presented to the judge of the United States
77 court a petition to intervene in said cause, setting forth in said petition that he was the owner of the property, and that he was in possession of the same under proceedings of this hon. court; that, notwithstanding, your petitioner was refused permission to file said petition, or to have any standing in said court; that he was also denied the right of appeal from the decision of said court. Your petitioner further shows unto your honor that upon the filing of the claim and answer of J. G. M. Ramsey, the defendent in the above-entitled cause, exhibiting his pardon from the President of the United States for his complicity in the late rebellion, said information was dismissed, and said property restored to said Ramsey, and a writ of possession ordered to issue to put said Ramsey in possession of the same; that a writ of possession has

issued, and your petitioner has been ejected from the possession of said premises in utter disregard of the rights of your petitioner, or the decree of this hon. court; that the jurisdiction & proceedings of this hon.
78 court have been utterly disregarded and set at naught; that the action of the U. S. marshal in thus ejecting your petitioner was entirely unauthorized & illegal, and that he cannot justify his trespass by the writ of possession which has been issued from the United States court; that the attachment in this case was levied long prior to the seizure of said property by the United States, and that the United States had surrendered all claim to the property, & your petitioner stands in the position of a grantee of said Ramsey, and that therefore the action of the United States marshal in putting said Ramsey again in possession of his property, after the same has been sold to pay his debts, is a gross violation of the rights of your petitioner.

The premises considered, your petitioner prays that another writ of possession issue under the former decree of this hon. court, putting your petitioner in the quiet & peaceable possession of said premises, and for such other and further relief as to your honor shall seem agreeable to equity & good conscience. & your petitioner will ever pray, &c.

TROWBRIDGE & CALDWELL, *Sol's.*

79 Personally appeared before me J. R. Ludlow, who made oath, in due form of law, that the statements in the foregoing petition are true of his own knowledge, except as to those matters stated as on his information & belief, and as to those matters he believes it to be true.

J. R. LUDLOW.

Sworn to & subscribed before me this 5th day of July, 1866.

S. R. RODGERS, *Chancelor.*

To the clerk & master of the chancery court, Knoxville, Tennessee:

Let a writ of possession issue in accordance with the prayer of the foregoing petition.

S. R. RODGERS, *Chancellor.*

Writ of possession.

Chancery court, Knoxville.

To the sheriff of Knox County:

Whereas a petition has been filed in said court by J. R. Ludlow,
80 who had come into possession of the storehouse & lot, sold under decree of said court in the case of Cynthia S. White vs. J. G. M. Ramsey, who had been dispossessed of said property by a process issued from the U. States district court, lately in session at Knoxville, and the chancelor of the said chancery court has, in compliance with the prayer of said petition of the said J. R. Ludlow, directed the clerk & master of said court to issue a writ of possession as prayed for:

Now you, the sheriff aforesaid, are hereby commanded to put the said J. R. Ludlow into quiet & peaceable possession of the said storehouse situated on the east side of Gay street, adjoining the store owned by Jno. R. Branner, and being one of the tenements in what is called the Deaderick Block, and make return to the special term of said court, to be holden on the 5th Monday of July inst.

Witness D. A. Deaderick, clerk & master of said court, at office in Knoxville, the first Monday in April, 1866.

D. A. DEADERICK, *C. & M.*

81 *Return.*

Came to hand same day issued. Executed by placing J. R. Ludlow in possession of the property as commanded in the within.
July 13, 1866.

M. D. BEARDEN, *Sh'ff.*

Order, Oct. 27, 1864.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

In this cause, on motion of compl't's solicitor, it is ordered that the sheriff have leave to amend his return on the attachment in the cause; which amendment is accordingly made.

Decree, Oct. 28, 1864.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

This cause came on to be heard on this Oct. 28, 1864, before Chancelor Lucky, in the bill & exhibit and judgment pro confesso regularly taken in the cause, and it appears to the court that s'd def't executed his bill single to compl't on the 17th July, 1860, for three hundred dollars, due at six months, with interest from date, & had paid the accruing
82 interest thereon up to the 17th January, 1863, leaving now due & unpaid the principal of $300, & the remaining interest to date, of thirty-two dollars, making in all now due the sum of three hundred & thirty-two dol's.

It also appears that said def't had left this State, or so concealed himself that the ordinary process of law could not be served upon him, & compl't prayed for & obtained an attachment in the cause, which was levied on all the right, title, & interest that def't had in and to the block & lot known as the Deaderick Block, on the east side of Gay street, in the city of Knoxville, Knox County, Tennessee, Sept. 25th, 1863, there being "no personal property of resp't to be found by the sheriff in said county." And it appears from a certified copy of a deed on file in the cause, executed by John Crozier, for said lot of land, to the def't, June 23rd, 1838; that the same is set forth and described as follows, to wit:

"A certain lot of land situated in the town of Knoxville, being part of lots number twenty-six & twenty-five in the plan of Knoxville,
83 and bounded & described as follows, viz:

"Beginning at a point on Gay street, corner of D. A. Deaderick's lot, this day conveyed to him by John Crozier; then, with Gay street, north thirty west fifty feet, to the corner of the lot conveyed to A. R. Crozier, by deed from said John Crozier, of equal date herewith; then north sixty east, with said A. R. Crozier's lot, ninety feet, to the upper corner of C. W. Crozier's lot, this day conveyed to him by the said John Crozier; thence, with C. W. Crozier's line, south thirty east fifty feet, to E. J. Deaderick's corner; thence, with her line, south sixty west ninety feet, to the beginning corner on Gay street, containing four thousand five hundred feet, more or less."

And the court being of opinion that compl't is entitled to the relief prayed for in the bill, it is therefore adjudged & decreed that said compl't recover of said def't the sum of three hundred & thirty-two dollars, the principal & interest now due on said bill single, & all costs in this cause accruing; it is further ordered & decreed that said lot
84 of land so attached in the cause be sold by the C. & M. in satisfaction of said sum & costs. And the C. & M., after giving notice in "Brownlow's Knoxville Whig and Rebel Ventilator," a newspaper published at Knoxville, Knox County, Tennessee, for forty days, of the time, place, & terms of sale, will proceed on the premises to sell said lot of land at public outcry to the highest bidder, on a credit of six months, taking bond & security, & retaining a lien on the land for the purchase-money. And, on application of complainant, it is ordered that the sale be made free from the right of redemption, & out of the proceeds of the sale will be satisfied, first, all costs in the cause; 2nd, compl'ts said demand; & the surplus, if any, will await the further of the court. The C. & M. will report his action to the next term of court.

Decree, Jan'y 5, 1865.

CYNTHIA WHITE }
vs.
J. G. M. RAMSEY. }

This cause coming on for further directions before Chancelor
85 Lucky, on this the 5th day of January, 1865, upon the report of the clerk & master, made to the present term of this court, in the following words and figures, to wit:

(Copied, see page 6.)

And there being no exceptions to said report, the same is hereby, in all things, confirmed; and the court doth further order, adjudge, and decree that all the right, title, & interest which the said J. G. M. Ramsey has in & to the premises sold be, and the same is hereby, divested out of the said J. G. M. Ramsey, and vested in fee-simple in S. Vail, the purchaser, subject to a lien thereon for the unpaid purchase-money; and it is further ordered by the court that the clerk & master certify a copy of this decree for registration, and, in the event the same becomes necessary, he will issue process commanding the sheriff of Knox County to put the purchaser or his assignee into the possession of the premises.

Decree, April 4, 1865.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

86 It being suggested to the court that at a sale made by the authority of this court on the 3rd day of Jan'y, 1865, S. Vail became the purchaser of a storehouse owned by the respondent, J. G. M. Ramsey, under & in pursuance of decrees of this court in this cause, which storehouse is situated & being on the east side of Gay street, in Knoxville, and is now and has been for several months in the possession of J. R. Pace & Co., a firm composed of J. R. Pace, W. C. Kyle, J. R. Branner, and John Blevis; and it being further suggested that at the

January term of said court last, a decree was rendered by this court, vesting the title of said storehouse in the said S. Vail, and ordering a writ of possession, if necessary, to put him in possession of the same; and it further appearing that a writ was duly issued to the sheriff of Knox County, commanding him to put the said Vail into possession of said premises and make return of said process to the court, and
87 make known how he has executed the same; and the sheriff having returned "that he proceeded to the house for the purpose of executing this writ, and found some three or four negro soldiers there with their arms;" and that he was "informed by J. R. Pace, the occupant of the house, that Capt. Whitman had placed them there to prevent this writ from being executed," consequently he "made no further attempt to execute" said writ; and the court being moved by said Vail, solicitor, doth order that the said J. R. Pace, W. C. Kyle, John R. Branner, & John Blevins appear at 9 o'clock a. m., on Thursday, the 6th instant, before this court, at the court-house at Knoxville, to show cause, if any they have, why they shall not be ordered to vacate said premises, under penalty of an attachment for contempt in case they refuse to do so. It is further ordered that a copy of this order [to] be furnished by the master to the sheriff of Knox County, to be served upon said parties by said sheriff, of which fact he shall make due return.

88 *Order, April* 4, 1865.

CYNTHIA S. WHITE
vs.
J. G. M. RAMSEY AND 5 OTHER CASES.

In these several cases it is ordered by the court that the master enquire & report to the present term of the court what amount of taxes remain unpaid on the property, heretofore sold under decrees of this court, in each of these cases.

Order, Ap'l 20, 1865, *or that part of it relating to this case.*

CYNTHIA S. WHITE
vs.
J. G. M. RAMSEY.

The master, in obedience to a former order of this court, made his report on the 12th April, 1865, as to taxes, and the said report, not being excepted to, is in all things confirmed. From said report it appears, in the case of Cynthia S. White vs. J. G. M. Ramsey, that the State, county, and corporation taxes for 1864, and including sums due for previous years as shown in the report, amount to $592 67, but this in-
89 cludes the entire town property of J. G. M. Ramsey; not more than one-half the amount should be charged to the property sold under a decree of this court.

Order, Jan'y 16, 1866.

CYNTHIA S. WHITE
vs.
J. G. M. RAMSEY.

In this cause, for sufficient reasons appearing to the court, it was ordered & adjudged that the clerk & master pay out of the funds in his

office, arising from the sale of the house & lot described in the bill and decrees in this cause, all taxes that were due upon said house & lot at the time the same was sold by the master.

Costs.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

State tax			3 50
Clerk Deaderick, fil'g bill, 25; affid't, 25		50	
Pros. bond, 25; sec'y, 25; rec'g, 25		75	
Attach't bond, 50; sec'y, 25; rec'g, 25		1 00	
Iss'g attach't, 1 00; report of sale, 1 60		2 60	
Order pub'n, 50; iss'g writ of poss., 75		1 25	
90 Iss'g order or writ, as per decree, 75		75	
Ent'g order, 25; ent'g 3 decrees, 1 55		1 80	
Final judg't, 75; 15 rules, 1 50		2 25	
3 ent's on trial docket, 30; tax'g costs, 50		80	
Com'n on sale, $5,100 50, 83 00		83 00	
			94 70
Sheriff W'm H. Swann, levying attach't			1 00
Printer, Knoxvl. Whig, pub'n non-res't, Jan'y, 1864		5 00	
" " " adv't sale of house & lot, Nov. 23, '64		5 00	10 00
			$109 20

STATE OF TENNESSEE, *Knox County:*

I, D. A. Deaderick, clerk & master of the chancery court at Knoxville, Tennessee, hereby certify that the foregoing is a correct and true transcript of the case in said court recently decided, wherein Cynthia S. White was complainant and J. G. M. Ramsey respondent, as the same appears of record in my office.

Given under my hand and the seal of the court, at office in Knoxville, this 12th day of January, 1867.

[SEAL.] D. A. DEADERICK, *C. & M.*

91 *Meetings & adjournments of court, &c.*

MONDAY, *October* 5, 1863.

At the regular term of the chancery court for the first division of the State of Tennessee, to be held on the first Monday, being the 5th day of October, 1863, the chancelor was not present, when the clerk & master opened & adjourned the court till to-morrow morning at 9 o'clock.

The chancelor still being absent, the clerk & master adjourned the court from day to day to Thursday morning at 9 o'clock, when the chancellor not yet being present, detained, as is presumed, on account of the occupancy of the country between Knoxvl. & Jonesboro by the troops of the federal & confederate armies, the clerk & master adjourned the court till the court in course, or till the special term, should the chancellor decide to appoint one.

Thursday, Oct. 8, 1863.

D. A. DEADERICK, *C. & M.*

MONDAY, *April 4th*, 1864.

92 On this the day for the sitting of the court at its regular term, the chancellor did not appear, the causes referred to above still preventing him, as is supposed, from reaching this place. The clerk & master adjourned the court from day to day to Thursday morning, the 7th of April, when, the chancellor not being present, the clerk & master adjourned the court to the next regular term, or to the day on which the chancellor may decide to hold a special term.

Thursday, April 7th, 1864.

D. A. DEADERICK, *C. & M.*

MONDAY, *October* 3, 1864.

At the regular term of the chancery court for the first division of the State of Tennessee, held at the court-house in Knoxville on the first Monday, being the 3rd day of October, 1864, the chancellor, Seth J. W. Lucky, was present but not prepared, for reasons which need not be here stated, to open the court, when the clerk & master adjourned the court from
93 day to day till Thursday morning, the 6th October, when, Chancellor Lucky being present & presiding, the following proceedings were had:

THURSDAY MORNING, *October* 6, 1864.

The chancellor decides, after consultation with the members of the bar & with their consent, a special term is appointed to commence on the fourth Monday of this month, until which time all of the cases are hereby continued, & to remain in the same state & condition as at present, until which time court is adjourned.

S. J. W. LUCKY.

MONDAY, *October 24th*, 1864.

At the special term of the chancery court for the first division of the State of Tennessee, at Knoxville, on the fourth Monday, being the 24th day of October, 1864—present & presiding, the Honorable Seth J. W. Lucky, chancellor—the following proceedings were had:

94 Court adjourned till to-morrow morning, 10 o'clock.

S. J. W. LUCKY.

TUESDAY, *October 25th*, 1864.

Court met pursuant to adjournment. Present & presiding the Hon. Seth J. W. Lucky.

S. J. W. LUCKY.

WEDNESDAY, *October* 26, 1864.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court adjourned untill to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

THURSDAY, *Oct. 27th.*

Court adjourned until to-morrow morning, 10 o'clock.

S. J. W. LUCKY.

FRIDAY, *Oct.* 28.

Court adjourned till to-mmorrow morning at 10 o'clock.

S. J. W. LUCKY.

95 SATURDAY, *Oct.* 29, 1864.

Court adjourned until Monday morning at 10 o'clock.

S. J. W. LUCKY.

MONDAY, *Oct.* 31*st*, 1864.

Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

TUESDAY, *Nov.* 1*st*, 1864.

Court adjourned until to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

WEDNESDAY, *Nov.* 2, 1864.

Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

THURSDAY, *Nov.* 3*rd*.

Court adjourned till January special term.

S. J. W. LUCKY.

96 MONDAY, *January* 2, 1865.

At the special term of the chancery court for the first division of the State of Tennessee, at Knoxville, on the first Monday, being the second day of Jan., 1865—present & presiding, the Hon. Seth J. W. Lucky, chancellor—the following proceedings were had:

Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

TUESDAY, *January* 3*rd*, 1865.

Court met pursuant to adjournment. Present & presiding as on yesterday. Adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

WEDNESDAY, *January* 4*th*, 1865.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

97 THURSDAY, *Jan.* 5*th*.

Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

FRIDAY, *Jan.* 6*th*.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

SATURDAY, *Jan.* 7*th*.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court adjourned till Monday morning at 10 o'clock.

S. J. W. LUCKY.

MONDAY, *January* 9, 1865.

Court met pursuant to adjournment. Present & presiding as before. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

98 TUESDAY, *Jan.* 10, 1865.

Court met pursuant to adjournment. Present & presiding as on yesterday. Adjourned till Monday morning, the 16th inst., at 10 o'clock.

S. J. W. LUCKY.

MONDAY, *January* 16, 1865.

Court met pursuant to adjournment, and adjourned to meet again on Saturday morning next, the 21st inst., at 10 o'clock.

S. J. W. LUCKY.

SATURDAY, *Jan.* 21, 1865.

Court met pursuant to adjournment. Present & presiding the Hon. Seth. J. W. Lucky, chan. Adjourned till Monday morning, Jan. 23.

MONDAY, *Jan. 23rd*, 1865.

Court met pursuant to adjournment. Present & presiding as on
99 yesterday. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

TUESDAY, *Jan.* 24, 1865.

Court met pursuant to adjournment. Present & presiding the Hon. Seth J. W. Lucky, chancellor, &c. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

WEDNESDAY, *Jan.* 25, 1865.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court adjourned till to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

THURSDAY, *Jan.* 26, 1865.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court then adjourned, to-morrow morning at 10 o'clock.

S. J. W. LUCKY.

100 JAN. 27.

Court met pursuant to adjournment. Present & presiding as on yesterday. Court then adjourned till the regular term on the first Monday of April next.

S. J. W. LUCKY.

Entry of record in reference to special term.

MONDAY, *October* 31*st*, 1864.

It is ordered by the court, with the consent of the bar, that a special term of this court be held on the first Monday of January next, being the second day of the month. And it is further ordered by the court that all causes for trial at this term of the court shall stand in the same condition they now do, with leave to parties to take all orders, exceptions, rules, or proceedings which they could do at this term. It is further ordered that the clerk report, as far as practicable, in all causes
101 to the special term unless otherwise heretofore directed; and that process to be issued may be made returnable to said special term.

STATE OF TENNESSEE, *Knox County:*

I, D. A. Deaderick, clerk & master of the chancery court at Knoxville, hereby certify that the foregoing orders of said court in reference to the meetings and adjournments, and the appointment of a special term of said court, are truly and correctly copied from the records as they appear in my office.

Given under my hand and the seal of the court, at office in Knoxville, this 16th day of June, 1868.

[SEAL.] D. A. DEADERICK, *C. & M.*

Index.

	Prosecution bond	1
	Attachment bond	2
	Orig'l & attach't bill	2
	Exhibit "A" to the bill	4
102	Attachment	4
	Master's report of sale	6
	Rules on the "rule docket"	8
	Order as to possession	11
	Writ of possession	13
	Petition of J. R. Ludlow	15
	Second writ of possession	20
	Orders and decrees	21
	Costs of the cause	29
	Meetings & adjournments	31
	Entries as to special term	37

Endorsed: Transcript. Chancery court at Knoxville, Tenn. Cynthia S. White vs. J. G. M. Ramsey. Exhibit "A."

Deed—Vail to Ludlow.

Stamped $6 50.

For and in consideration of the sum of five thousand dollars to me in hand paid, the receipt whereof is hereby acknowledged, I, Stephen Vail, of the county of Knox, in the State of Tennessee, have this day bargained and sold, and do hereby transfer and convey, to Jacob R. Ludlow, of the same county and State, my house and lot situate in the town of Knoxville, in said county and State, fronting twenty-
103 four feet and four inches on Gay street, in said town, and running back ninety feet, it being the northern tenement in the block heretofore built jointly by D. A. Deaderick and J. G. M. Ramsey, and adjoining that heretofore owned by George Mayo, it being one-half of a lot of fifty feet heretofore sold by John H. Crozier to the said J. G. M. Ramsey, which was afterwards, to wit, on the third day of January, 1865, purchased by me, the undersigned, Stephen Vail, at a sale made by David A. Deaderick, clerk & master of the chancery court at Knoxville, in said State, by virtue of a decree pronounced by said court in the case of Cynthia S. White vs. J. G. M. Ramsey, which sale was afterwards by said court confirmed, and another decree pronounced in said cause divesting the title to said lot out of the said J. G. M. Ramsey and vesting it in me in fee-simple; which said last-mentioned decree was duly registered in the office of the register of said county, in book C, 3rd, pages

314 and 315, and to it reference is hereby made for a more particu-
104 lar description of said property: To have and to hold the above-described lot or parcel of land, with all and singular the right, ways, easements, tenements, and hereditaments to the same appertaining and belonging, unto the Jacob R. Ludlow, his heirs and assigns forever, as an indefeasible inheritance in fee-simple. And I covenant with the said Jacob R. Ludlow that I am lawfully seized of said land, have a good right to convey it, and that the same is unincumbered. And I do further covenant and bind myself, my heirs, and personal representatives, unto and with the said Jacob R. Ludlow, his heirs, and assigns, that I will forever warrant and defend the title to the same against the lawful claims of all persons whatever. And, for the consideration of fourteen hundred dollars, I, the undersigned Stephen Vail, have also bargained and sold, and do hereby transfer and convey, unto the said Jacob R. Ludow two other lots situate in said county, State, and town, they being the same two lots conveyed to me by John M. Sawyers and
Mariah J. Sawyers, by their joint deed bearing date November
105 11th, 1865, and registered in the office of the register for the county aforesaid in book C, 3rd, pages 503, 504, and 505, to which reference is hereby made for a more particular description, it being the true intent and meaning of this deed to convey to the said Jacob R. Ludlow all the property and estate conveyed to me by said deed: To have and to hold the said two last-mentioned lots, with all and singular the rights, ways, easements, tenements, and hereditaments unto the same appertaining and belonging, unto the said Jacob R. Ludlow, his heirs and assigns, as an indefeasible inheritance in fee-simple. And I do covenant with the said Jacob R. Ludlow that I am lawfully seized of said land, have a good right to convey it, and that the same is unincumbered save for a note of six hundred and eighty dollars, bearing date the said eleventh day of November, 1865, and due six months after date, said note having been given for a part of the purchase-money to the
said Mariah J. Sawyers, the amount of which is hereby agreed
106 shall be retained by the said Jacob R. Ludlow out of the purchase-money agreed to be given for the said two lots. And I do further covenant and bind myself, my heirs, and personal representatives unto and with the said Jacob R. Ludlow, his heirs and assigns, that I will forever warrant and defend the title to said two last-mentioned lots against the lawful claims of all persons whatever.

Witness my hand and seal this 9th of March, 1866.

STEPHEN VAIL.

M. D. BEARDEN.
JAMES T. ABERNATHY.

STATE OF TENNESSEE, *Knox County:*

Personally appeared before me, W'm F. Slay, clerk of the county court in and for the county and State aforesaid, Stephen Vail, the bargainer to the within deed, with whom I am personally acquainted, and who acknowledged that he executed said deed for the purposes therein contained.

Given under my hand, at office in Knoxville, this 9th day of March, 1866.

W'M F. SLAY, *Clerk.*

107 REGISTER'S OFFICE, *March* 12, 1866.

STATE OF TENNESSEE, *Knox County:*

Then was this deed and certificate registered in my office, in Knoxville, in deed book D, vol. 3rd, page 150–'51, and noted in note book A, page 209.

Given under my hand, at office in Knoxville, date above written.

S. H. SMITH, *D. Register.*

Endorsed: Exhibit "B." Deed—Stephen Vail to Jacob R. Ludlow.

Petition of J. G. M. Ramsey.

To the Honorable C. F. Trigg, one of the district judges of the United States, presiding at Knoxville, for the district of East Tennessee:

Your petitioner, J. G. M. Ramsey, a citizen of the State of North Carolina, showeth unto your honor that, in the year 1864, your petitioner was the owner of a town lot, situated in the city of Knoxville aforesaid, on Gay street, and adjoining a lot owned by John R. Branner, upon which there is a business house.

An information was filed against said property in said year, in
108 this honorable court, by James P. Swan, the then district attorney for the said district, seeking to confiscate said property. Afterwards your petitioner was allowed to intervene, and at the May term of this court, 1866, the said information was discharged, & said property restored to your petitioner by virtue of the order of this honorable court & the writ of possession that issued under said order.

Your petitioner further shows unto your honor that a certain J. R. Ludlow, a citizen of the said city of Knoxville, who was put out of the possession of said property, under & by virtue of said judgment & decree of this honorable court, on the 5th day of July, 1866, presented an ex parte petition to Honorable Samuel R. Rodgers, then chancellor for the 8th chancery division in & for the State of Tennessee, setting forth the action of this court in relation to said property, and suppressing some of the material facts, as will fully appear from the record of said
109 cause, which is here referred to and made a part of this petition.

The said petitioner invoked the aid of said chancellor, to interfere and set aside the proceedings of this hon. court, in restoring said property to your petitioner, & praying that your petitioner be turned out of the possession, & the said Ludlow put in the possession. The prayer of the said petition was granted by the said Rodgers on the 3rd day of July, 1866, and afterwards, to wit, on the 17 of said month, said petition & the fiat as aforesaid was filed in the office of the clerk & master of the chancery court for the county of Knox in said district, and on the same day a writ of possession was issued by the said clerk & master, under said fiat, directed the sheriff of said county, & your petitioner turned out of the possession of said property, & the same day that said petition was filed, by said writ of possession.

A copy of the said petition, fiat, writ of possession, & the sheriff's return thereon, are herewith filed & made a part of this petition.
110 Your petitioner nor no other person were made parties to the aforesaid petition of said Ludlow.

Your petitioner charges that said proceedings, under & by virtue of said petition, were illegal & void, and unknown to the laws of this country, and were gotten up out of contempt and utter disregard of this honorable court, & the orders & process of the same. Your petitioner

charges that said fiat was granted on the 5th of July, 1866, & was not filed, but held up until the 17th of said month, in order that your honor should leave the city, for fear of being interfered with by the process of this honorable court,

The premises considered, your petitioner prays that this hon. will protect its judgments, decrees, orders, & process; and that your petitioner be restored to the possession of said property, under the former order of this court; and that an attachment issue against said J. R. Ludlow for a contempt of this hon. court & its process.

111 And, if your petitioner is mistaken in his special prayer, he prays for such other & further relief as he may be entitled to.

The said Ludlow did not go in the possession of said property under a decree of any court, but by one Vail.

DISTRICT OF EAST TENNESSEE:

Personally appeared before me J. C. Ramsey, & made oath that the facts stated in the foregoing petition are true, to the best of his knowledge, information, & belief.

J. C. RAMSEY,
Agent & Att'y for J. G. M. Ramsey.

Sworn to & subscribed before me Jan. 8, 1866.

M. L. HALL, *Clk.*

Transcript from chancery court, referred to in foregoing petition.

State of Tennessee, chancery court, county of Knox.

CYNTHIA S. WHITE }
vs.
J. G. M. RAMSEY. }

To the Hon. Samuel R. Rodgers, holding the chancery court, at Knoxville, Tenn.:

112 The petition of J. R. Ludlow respectfully sheweth unto your honor that, in the above-entitled case, an original and attachment bill was filed to enforce the payment of a note of hand, held by said complainant, Cynthia S. White, against the said J. G. M. Ramsey, dated Sept. 18, 1863; that upon the same day an attachment was duly and regularly issued out of this hon. court, which, upon the 25th day of Sept., 1863, was duly levied upon a house and lot on Gay st., and joining Mayo, as the property of defendant; that the bill in said cause was duly taken as confessed after the required publication, and that on the 26th day of Oct., 1864, a decree was rendered by this hon. court, ordering said house and lot to be sold on a credit of six months; that in obedience to said decree, on the 3rd day of January, 1865, the clerk and master of this court proceeded to sell said house and lot, having given the required notice, and that at said sale S. Vail became the purchaser for the sum of five thousand one hundred dollars, his being
113 the highest, last, and best bid for the same; that afterwards, to wit, on the 5th day of January, 1865, the report of the clerk and master of said sale was in all things confirmed, and it was further ordered, adjudged, and decreed by this hon. court that all the right, title, and interest which the said Ramsey has in and to said property should be divested out of said Ramsey and vested in said Vail, and that a writ of possession should issue to put said Vail, the purchaser, in the quiet

and peacable possession of the same; that afterwards a writ of possession did issue, and said Vail was put in the quiet and peacable possession of said property; that on the 7th day of March, 1866, your petitioner purchased said property of said Vail, and was put in the possession of the same.

Your petitioner further shows unto your honor that some time in October, 1864, as your petitioner is informed and believes, James P. Swann, district attorney for the United States, filed an information
114 against said property, seeking to have the same declared forfeited to the United States; that your petitioner was not aware, for a long time, that such information had been filed, and that as soon as he became aware of that fact, and that it was necessary for him to appear in the United States court to protect his right, he presented to the judge of the United States court a petition to intervene [to] in said cause, setting forth, in said petition, that he was the owner of said property, and that he was in possession of the same under proceedings of this hon. court; that, notwithstanding, your petitioner was refused permission to file said petition, or to have any standing in said court; that he was also denied the right of appeal from the decision of said court. Your petitioner further shows unto your honor that, upon the filing of the claim and answer of J. G. M. Ramsey, the defendant in the above-entitled cause exhibited his pardon from
115 the President of the United States for his complicity in the late rebellion, said information was dismissed and said property restored to said Ramsey, and a writ of possession ordered to issue to put the said Ramsey in the possession of the same; that a writ of possession has issued, and your petitioner has been ejected from the possession of the said premises, in utter disregard of the rights of your petitioner or the decree of this hon. court; that the jurisdiction and proceedings of this hon. court have been utterly disregarded and set at naught; that the action of the United States marshal in thus ejecting your petitioner was entirely unauthorized and illegal, and that he cannot justify his trespass by the writ of possession which has been issued from the United States court; that the attachment in this case was levied long prior to the seizure of said property by the United States; that the United States have surrendered all claim to the property, and
116 your petitioner stands in the position of a grantee of said Ramsey, and that, therefore, the action of the U. S. marshal in putting said Ramsey again in possession of his property after the same had been sold to pay his debts, is a gross violation of the rights of your petitioner.

The premises considered, your petitioner prays that another writ of possession issue under the former decree of this hon. court, putting your petitioner in the quiet and peacable possession of said premises, and for such other and further relief as to your honor shall seem equitable to equity and good conscience; and your petitioner will ever pray.

TROWBRIDGE & CALDWELL, *Sol's.*

Personally appeared before me J. R. Ludlow, who made oath, in due form of law, that the statements in the foregoing petition are true of his own knowledge, except as to those matters stated as on his
117 information and belief, and as to these matters he believes it to be true.

J. R. LUDLOW.

Sworn to and subscribed before me this 5th day of July, 1866.

S. R. RODGERS, *Chancellor.*

To the clerk and master of the chancery court, Knoxville, Tenn.:

Let a writ of possession issue in accordance with the prayer of the foregoing petition.

S. R. RODGERS, *Chancellor.*

Filed July 17, 1866.

D. A. DEADERICK, *C. & M.*

Writ of possession.

Chancery court, Knoxville.

To the sheriff of Knox County:

Whereas a petition has been filed in said court by J. R. Ludlow who had come into possession of the storehouse and lot sold under de-
cree of said court, in the case of Cynthia S. White vs. J. G. M.
118 Ramsey, and had been dispossessed of said property by a process issued from the U. States court lately in session in Knoxville, and the chancellor of said chancery court has, in compliance with the prayer of said petition of the said J. R. Ludlow, directed the clerk and master of said court to issue a writ of possession as prayed for:

Now you, the sheriff as aforesaid, are hereby commanded to put the said J. R. Ludlow into quiet and peacable possession of the said storehouse situated on the east side of Gay street, adjoining the store owned by John R. Branner, and being one of the tenements in what is called the Deaderick Block, and make return to the special term of said court to be holden on the fifth Monday of July inst.

Witness D. A. Deaderick, clerk and master of said court, at office in Knoxville, the first Monday of April, 1866.

D. A. DEADERICK, *C. & M.*

119 Issued July 17th, 1866; came to hand same day issued; executed by placing J. R. Ludlow in possession of the property, as commanded in the within, July 17th, 1866.

M. D. BEARDEN, *Sheriff.*

STATE OF TENNESSEE, *Knox County:*

I, D. A. Deaderick, clerk and master of the chancery court at Knoxville, Tenn., hereby certify that the foregoing petition and writ of possession are correctly copied from the originals on file in my office.

Given under my hand and the seal of the court this 22 day of October, 1866.

[SEAL.] D. A. DEADERICK. *C. & M.*

And afterwards, at the May term, 1868, of the said United States circuit court for the district of East Tennessee, the following proceeding was had, to wit:

Motion to appoint receiver.

THURSDAY MORNING, *June* 11, 1868.

Court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

120 J. G. M. RAMSEY
vs.
J. R. LUDLOW ET AL. } Bill in chancery, 160.

Came the complainant by his solicitor, and moved the court for the

appointment of a receiver in this case, which motion the court holds under consideration until a future day of the term.

Appointment of receiver.

TUESDAY MORNING, *June* 23, 1868.

J. G. M. RAMSEY
vs.
J. R. LUDLOW ET AL. } Bill in equity, No. 160.

Be it remembered that the motion to appoint a receiver, made on a former day of this court, in presence of the solicitors of the parties in interest therein, having been argued in open court by the solicitors of the parties, the court doth declare it a proper case for the appointment of a receiver, and said motion is thereupon made absolute. And the court doth appoint James Comfort receiver in this cause, who will take possession of the property mentioned in the pleadings, and rent
121 the same from month to month, or until the next term of this court, whichever will produce the highest rents and best tenants, and have said property carefully protected in the mean time, and report to next court, or as he may be ordered to do. And the parties are hereby ordered to surrender the said property to said receiver, that he may execute this order and his duty as such receiver. It is further ordered that said receiver, before he proceeds to execute his duties as such receiver, enter into bond, with sufficient security, payable to the clerk of this court, in the sum of fifteen hundred dollars, for the faithful performance of his duties.

Bond of receiver.

We, James Comfort and William H. Sneed, hereby acknowledge ourselves to be indebted to the clerk and master of the circuit court of the United States for the eastern district of Tennessee, in the sum of
122 fifteen hundred dollars; to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, & administrators. The above obligation to be void, however, on condition that the above-bound James Comfort, who has, by said court, during its present term, been appointed to act as receiver in the case of J. G. M. Ramsey vs. J. R. Ludlow and others, being case No. 160 on the chancery docket of said court, shall securely keep the funds which may come to his hands as such receiver, & hold them subject to the order of said court, and shall otherwise well and faithfully perform his duties as such receiver, as the same are specified in the order of his appointment; otherwise to remain in full force and effect.

Witness our hands & seals this 24th day of June, 1868.

JAMES COMFORT. [SEAL.]
W. H. SNEED. [SEAL.]

Endorsed: 160. J. G. M. Ramsey vs. J. R. Ludlow & others. Bond of Jas. Comfort as receiver. Filed June 24, 1868. M. L. Hall, cl'k.

123 *Report of receiver to January term*, 1869.

Circuit court of U. S., east. dist. of Tennessee.

J. G. M. RAMSEY
vs.
J. R. LUDLOW ET AL.

Report of James Comfort, who was appointed by the court, at its May term, 1868, receiver of the property in controversy in this case, made to the January term of 1869.

The receiver respectfully reports that he took possession of the premises committed to his charge by the court shortly after, and in accordance with, the order of the court appointing him.

The same have been rented by him quarterly & monthly, & mostly in conformity to the agreements of lease already effected by J. R. Ludlow before the receiver came into possession.

The building was found to be greatly in need of repairs, some of which were necessary to prevent serious damage to the ceilings & walls from leakage, & others required to put valuable parts of the
124 premises in tenantable condition. The whole amount received up to date, as will be seen by the account in detail here set out, is $821 00, and whole amount expended, as shown by said account, & for which vouchers are herewith filed, $412 28, leaving a balance in favor of the fund of $408 72, (four hundred & eight doll's & $\frac{72}{100}$.)

The court authorized the receiver to invest the fund in U. S. securities. This being left, by the language of the order, discretionary with the receiver, was not done, mainly from the fact that the expenses incurred by the receiver for repairs, taxes, &c., so nearly kept the funds exhausted for some time that, until within a month or two before the present term of court, at which the case is expected to be tried, only a small balance was left on hand, as will be seen from the account.

Receiver makes the vouchers & other papers herewith filed a part of his report.

125 *Receiver.*

			Dr.	Cr.
1868.				
July	3	To rent received from Richards & Co	80 00	
	"	By receipt of Aiken, carpenter, for materials furnished, and work done		17 38
	18	By bill of James Kitchen, for plastering		61 10
	22	By receipt of Aiken, for additional work		3 25
	21	To rent from Dr. Harris	10 00	
Aug.	1	" " " " "	2 50	
	13	By bill for advertising Ramsey's Hall		5 00
	20	" " of Aiken, for building stage in R. H		11 00
	28	" " for calico for stage		2 75
	1	To rent from Richards & Co	80 00	
Sept.	1	" " " " "	80 00	
	1	" " " Dr. Harris	12 50	
	3	By bill of Shepard, Renshaw & Atkin, for table & chairs for Ramsey's Hall		9 00
	8	By bill of gas-light co., for gas fixtures		30 00
	11	To rent from Ramsey's Hall	7 00	
	21	" " " " "	13 00	
		By bill of S. T. Atkin, for benches, &c		93 56
Oct.	1	To rent from Richards & Co	80 00	
	"	" " " Dr. Greaves	12 50	
	20	" " " " "	3 00	
	"	By gas bill paid		1 70
	23	To rent from Schlier	45 00	

126			Dr.	Cr.
1868.				
Oct.	23	By am't paid Tenner, Adney & Cruze		7 28
	29	" " of corporation tax paid		75 00
	31	" " State & county tax p'd		76 70
Nov.	1	To rent from Richards & Co	80 00	
	17	By gas bill paid		1 70
	28	" bill, Flamken, repairing flue		1 25
Dec.	1	To rent from Richards & Co	80 00	
	7	" " " M. J. Hughes	10 00	
	23	" " " " "	5 00	
	"	By bill for opening flue to front room		1 50
	26	To am't from Young Men's Christ. Ass., for hire of 8 benches	50	
	29	Paid negro for attending to R. Hall		5 00
1869.				
Jan'y	14	By bill of Cruze & Adney, tinners		9 12
	1	To rent from Richards & Co	80 00	
	12	" " " M. J. Hughes	15 00	
	27	" " " Schlier	45 00	
Feb.	1	" " " Richards	80 00	
			821 00	412 28
		Balance due to fund		408 72
			$821 00	821 00

Respectfully submitted.

JAMES COMFORT, *Receiver.*

127 Endorsed: No. 160. J. G. M. Ramsey vs. J. R. Ludlow et al. Report of James Comfort, receiver, to January term, 1869. Filed Feb. 6, 1869. M. L. Hall, cl'k.

Report of receiver to July term, 1869.

Circuit court of the U. S., in chancery, at Knoxville.—July term, 1869.

J. G. M. RAMSEY
vs.
J. R. LUDLOW ET AL.

James Comfort, the receiver in this case, respectfully reports to the court the following account of his receipts and expenditures as such receiver since the filing of his report at the last term of the court:

James Comfort, receiver, &c.

1869.							
Feb.	6	To balance due at filing last report.	408 72	M'ch.	8	By 400 5-20 U. S. bonds, issue of '67, purchased in N. Y., thro' , First Nat. B'k, at 1 13¼.	453 00
	17	Rent from M. J. Hughes.....	12 00			Express charges on same, from N. Y.	1 50
M'ch	1	" " Richards & Co.....	80 00				
	16	" " Hughes.....	12 00				
	23	" " "	3 50	Ap'l	1	Policy of insurance in Enterprise Fire & Marine Ins. Co. of Cincinnati, on Ramsey building, for one year.	125 25
Ap'l	1	" " Richards & Co.....	80 00				
	17	" " Hughes.....	12 50				
May	3	" " Richards & Co.....	80 00				
	"	" " Schlier.....	45 00				
128			Dr.				Cr.
May	6	Return of premium on insurance policy of the Enterprise In. Co. of Cincin.	113 44			Hire of negro in clearing up Ramsey Hall.	1 00
						Revenue stamps.....	30
	20	Rent from Hughes.....	10 00	May	24	Policy in the North Am. Fire Ins. Co. of N. Y., for one year.	125 25
June	1	" " Richards & Co.....	80 00				
	15	" " Hughes.....	15 00				706 39
			952 16			Balance due fund in cash, excluding bond.	245 86
							952 16

From which it will appear that there is in hand of receiver 400 5-20 bond, and a balance of $245 86 in currency.

Respectfully submitted.

JA'S COMFORT,
Receiver, &c.

Endorsed: J. G. M. Ramsey vs. J. R. Ludlow et al. Receiver's report to the July term, 1869. Filed this 20th day of July, 1869. M. L. Hall, clerk.

129 And afterwards, at the January term, 1869, of said United States circuit court for the eastern district of Tennessee, the following proceeding was had, to wit:

Judgment pro confesso as to C. S. White & S. Vail.

SATURDAY MORNING, *Feb'y* 20, 1869.

Court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

JAMES G. M. RAMSEY
vs.
CYNTHIA S. WHITE, STEPHEN VAIL, & JACOB R. LUDLOW.

The complainant, by his solicitor, moved the court to take the bill and amended bill for confessed in this cause as to said Cynthia S. White and Stephen Vail; and it appearing that process was, in due time before return of same, duly served, and said defendants not having entered their appearance, the said bills, original and amended, are hereby, as to them, taken for confessed, and set for hearing on said bills so taken for confessed.

130 And thereupon it is, by consent of the solicitors of the parties, and with the assent of the court, agreed that the plea and answer by defendant Ludlow to the original bill stand as plea & answer also to

the amended bill, and that the replication heretofore filed to said plea and answer, as a plea and answer, was properly so filed under an agreement of solicitors made at the time it was so filed. And it is also now agreed, in open court, by the solicitors of said Ludlow & complainant, that any objection, except that of competency, of subject-matter of evidence, or competency of witness, is waived as to the depositions or documentary evidence; and subject to this agreement all proof of witnesses & documents in the file shall be heard and considered at the trial or hearing without regard to whether the rules & practice have been observed & complied with or not.

Depositions.

131 In the United States circuit court, in the 6th circuit, for the district of East Tennessee.

J. G. M. RAMSEY
vs.
CYNTHIA S. WHITE, J. R. LUDLOW AND S. Vail.

Depositions of Samuel T. Atkin, C. A. Mitchell, G. M. Hazen, Louis David, J. L. Cooper, D. A. Deaderick, J. T. Abernathy, John Baxter, and Jno. E. Helms, witnesses for the complainant in the above case, taken by consent upon the 22 day of May, 1868, at my office in Knoxville, Tennessee, in the presence of J. C. Ramsey, solicitor for complainant.

S. T. Atkin.

Samuel T. Atkin, of lawful age, being duly sworn, deposed as follows:

Quest. How long have you lived in Knoxville?

Ans. About 44 years.

Ques. Have you had much experience in trading in real estate?

Ans. I have.

Ques. Are you acquainted with house and lot formerly owned by complainant known as the Ramsey building, on Gay street, being a three-story building?

Ans. I am, and have been ever since erected.

132 Ques. What you consider the property worth in 1865?

Ans. About ten thousand dollars.

And further this deponent saith not.

(1 day.) S. T. ATKIN.

Cross-examination of S. T. Atkin, June 23, '68:

I was living in Knoxville when the property in controversy in this case was sold by the C. & M. in January, 1865. I do not know what condition it was in at the time of the sale. My impression is, that the last time I was in it some of the plastering was off in both the 2nd & 3rd stories. I do not think real estate has advanced much since January, 1865. I think real estate was as high then as it has ever been. I do not think my residence on Gay st. would bring as much under the hammer as the property in question. About the time of the C. & M.'s sale I sold the house & lot, now occupied by S. D. Mitchell & Co. as a drug store, for $8,000 00. The lot I sold Mitchell is 20 feet front by

133 140 feet. The lot involved in this case is 25 × 90. Both houses

are 3-story. The Mitchell house is an old one, and not worth as much as the one in controversy in this case by $1,500 or $2,000, in my opinion.

Re-examination by J. C. Ramsey:

When I was in the house last the damages I noticed were not material, being confined to the falling of the plastering. This was about the time the sale was made by the C. & M.

And further this deponent saith not.

(1 day.) S. T. ATKIN.

C. A. Mitchell.

The said witness, C. A. Mitchell, aged 34 years, having been duly sworn, testified as follows:

I am acquainted with the house & lot situated on Gay street, in Knoxville, Tenn., now belonging to J. R. Ludlow, but formerly the property of the complainant in this case. I should think the property would have been worth about ten thousand dollars in 1865.

And further this deponent saith not.

(1 day.) C. A. MITCHELL.

134 *G. M. Hazen.*

The said witness, G. M. Hazen, aged 58, having been duly sworn, deposed as follows:

I have lived in and about Knoxville about 45 years; have kept myself pretty well posted about the advanced price of real estate at Knoxville. I am acquainted with the house & lot on Gay street, in Knoxville, Tenn., formerly owned by J. R. Ludlow; should think the property would have brought from eight to ten thousand dollars in 1865.

And further this deponent saith not.

(1 day—7 miles.) G. M. HAZEN.

Taking of depositions continued until May 25, 1868.

Louis David.

Witness, Louis David, aged 30 years, having been duly sworn, deposed as follows:

The firm of J. David & Bro. rented from S. Vail a brick store-room, with cellar, situate on Gay street, Knoxville, Tenn., from April 15, 1865, until July 25, 1865, at $200 00 per month. L. David & Co. rented
135 same room at same rent from July 25, 1865, to April 15, 1866, amounting in all to $2,400 00. My understanding was, that the building formerly belonged to the complainant in this case, & was bought by S. Vail at a chancery sale. After April 15, 1866, the firm of L. David & Co. rented from J. R. Ludlow for 10½ month at $1,000 00, which ended March 1, 1867. From that time L. David rented at $100 per month until the 1st day of March, 1868. Out of the rent of the last year J. C. Ramsey received $100 for one month's rent. I also occupied the house an additional month until the first of April, 1868, for which I paid $100 to Munson & Seymour for J. R. Ludlow. The total rents amounted to $4,700 00 during the time we occupied the store-room & cellar. During the time J. R. Ludlow exercised control over the building I think Cooper

occupied the 2nd floor for a short time. After they left, J. W. Patterson occupied 2nd & 3rd floors for printing office. Patterson told me that he paid $50 per month. After Patterson moved out, Schlier rented 3rd floor for a gallery, & a club rented the front room on the 2nd floor.
136 And further this deponent saith not.
(1 day.) LOUIS DAVID.

Cross-examination of Louis David, June 23, 1868:

My recollection is, that Cooper & Bro. occupied second story of property in controversy for 12 months at $125 per month. When I went into the 1st story, Cooper occupied the 2nd floor, which was in pretty fair condition. The first floor was in tolerably fair condition. In both the 1st & second stories a considerable portion of the plaster had fallen from the walls; the 3rd floor was in a bad fix, plaster off & glass broken. The roof, too, was in such bad condition that the rain penetrated to the first floor, and damaged my goods. The agent of the Ætna Fire Insurance Company cancelled the policy I had on my goods in consequence of the bad condition of the house. It was difficult to rent the upper stories on account of their bad condition. For a considerable
137 time after Patterson left the 3rd story, it remained unoccupied. After Vail left, I regarded $100 per month as very high rent for the first floor. I refused at one time to rent for the year 1867 at $80 per month, and only consented to remain because I was unable to obtain another room. In the damaged condition of the upper story it could not be occupied for any business.

On re-examination by J. C. Ramsey, witness testified:

I called Dr. Ludlow's attention to the bad condition of the house, & repaired the roof & the windows. He did not repair the ceiling in my store-room. I went to J. C. Ramsey at one time, & told him that the plastering had been knocked off the ceiling by dancing in the room above, & that Dr. Ludlow declined repairing it. Had the house been in "A No. 1 fix," it could have been rented sooner than what it was. Even if Dr. Ludlow had repaired the first floor & put it in good condition, I would not have rented at $100 per month. The present
138 occupants, Richards & Co., made their own repairs in fitting up for their business. I had the store-room ceiling whitewashed at my own expense. The last time I was in the 2nd story, the back part of it had not been fixed up. At this time the back part—the larger portion of the second story—is not fixed. Were it fixed up it might be rented for a hall. The roof is in bad repair now. During the course of this examination, Dr. Ludlow remarked in my hearing that he might have put a new roof on if J. C. Ramsey, esq., att'y for the compl't, had not bothered him.
(1 day.) LOUIS DAVID.

J. L. Cooper.

The said witness, J. L. Cooper, aged 32 years, having been duly sworn, deposed as follows:

I rented the second floor of the brick house on Gay street, in Knoxville, Tenn., formerly belonging to complainant Ramsey, from S. Vail, for one year ending about February 1, 1866, at $125 00 per month,
139 amounting to $1,500 for the year. During a portion of the time I occupied the 2nd floor—for about 3 months, I think—J. W. Patterson occupied the 3rd story, paying, as I understood, a rent monthly

of $25. At the time the house was sold, I think it ought to have brought $10,000 if a person could have secured a good title.

And further this deponent saith not.

(1 day.) JOSEPH L. COOPER.

D. A. Deaderick.

The said witness, D. A. Deaderick, of lawful age, having been duly sworn, deposed as follows:

Question 1 by compl't. When you, as clerk and master of the chancery court, sold the house and lot on Gay street, of comp't, in the case of C. S. White vs. J. G. M. Ramsey, did you require an amount to be paid down sufficient to pay all the cost in said case?

Answer. I did require a sum, estimated to be sufficient to pay
140 the costs, to be paid down, in accordance with a general order which had been made by the court, and doubtless made the announcement on the day of sale that $75 00 would be required down, as I find by reference to my report of the sale that that is the sum I received in cash on the day of sale.

Question 2nd by the same. Is the advertisement dated that appeared in Brownlow's Knoxville Whig, in the case of Cynthia S. White vs. J. G. M. Ramsey, notifying the said Ramsey to appear and defend said suit?

Answer. Yes; the advertisement is dated in my rule docket to have been put in the paper of Nov'r 23, 1864, but on reference to the paper in which it was printed, I find it is not properly dated, thus "n. 23," but is in the Knoxville Whig of the date November 23, 1864.

And further this deponent saith not.

(1 day.) D. A. DEADERICK.

J. T. Abernathy.

141 The said witness, James T. Abernathy, aged 34 years, having been duly sworn, deposed as follows:

I was engaged in the real estate business in 1866. While so engaged, Stephen Vail placed in my hands for sale the brick storehouse property, situated upon Gay street, Knoxville, Tenn., formerly belonging to the complainant in this case, which property I sold to J. R. Ludlow. Ludlow was acquainted with Vail's title, & at first questioned the validity of the same, but, after consulting with his lawyers, he seemed satisfied, & made the purchase. After Vail made this sale, he sold off the remainder of his property, and left Knoxville. Vail told me that the rents on the property, during the time he held it, had about yielded him what he had given for it. Ludlow considered that he had a good bargain in the property at $5,000.

And further this deponent saith not.

(1 day.)

J. T. ABERNATHY.

John Baxter.

The said witness, John Baxter, of lawful age, having been duly sworn, deposed as follows:

142 Question 1st by comp't. Were you counsel in the case of Cynthia S. White vs. J. G. M. Ramsey in a suit by attachment in the chancery court at Knoxville?

Answer. After the suit had been instituted, I was requested by some one, either Mr. Geo. M. White or A. G. Welcker, esq., to attend to the case, and did so, doing nothing, as I now remember, except drawing up the decree that was rendered in the cause, or superintending and directing that matter.

Question 2nd by the same. Were you counsel in a suit pending in the chancery court at Knoxville, wherein Brownlow and Ross were comp'ts, and J. G. M. Ramsey and T. C. Lyon were resp'ts? If so, please state, that after the house and lot of comp't was sold, if you filed a bill for Brownlow & Ross attaching the surplus fund arising from said sale for Brownlow and Ross.

143 Answer. I was of counsel for Brownlow and Ross in the suit referred to in the question, and filed an amended bill in that case attaching the surplus arising from the sale made in the case of Cynthia S. White vs. J. G. M. Ramsey. But it is, perhaps, proper for me to state that the two suits had no connection, and my action in the one was not influenced by any interest which my clients had in the other. I could, in case the lands had not been sold, just as easily have attached the land as I did attach the surplus of money arising from the sale of the property, and the result would have been the same, as I conceive, to Brownlow & Ross, whether the house and lot attached had been sold with or without the right of redemption. Had it been sold with the right of redemption, I could have attached this equity in a court of chancery. In a word, the right of Brownlow and Ross was in no way benefited by the sale in bar of the right of redemption which was made in case of Miss White, as they could have as well protected them-

144 selves in the manner above stated as [as] by the course which they adopted, and only adopted the latter course because the facts called for it.

Question 3rd by the same. Would not the house and lot have paid the White debt if it had been sold subject to redemption?

Answer. I cannot tell whether would or not, but presume it would have done so. It was certainly worth more than the amount of the debt, and it is usual for pl'ffs in such cases to bid their debt and costs, and, I presume, Miss White would have done so in this case. But property sold at execution sales, or under decrees of courts, with the right of redemption, as a general thing, is never bought by others than those interested in the sale, and rarely sells for anything more than the debt and costs.

145 Question 4th by the same. Please state what were your reasons for selling said house and lot not subject to redemption?

Answer. The decree was made by the court, and not by me. I do not know what reasons the court had for making it. My reasons for asking the court to make a decree to sell in bar of the right of redemption was the same as influenced me in all other similar cases. I supposed my client wanted the money. By selling in bar of the right of redemption, persons wanting the property would buy, and at the end of the credit given by the decree, six months, as I remember, she would get it, otherwise she would be forced to buy it in herself, and hold it subject to the right of redemption for two years before she could effect a collection of her debt. 'Twas to avoid this that I requested sale in bar of the right to redeem.

(1 day.)

JNO. BAXTER.

Jno. E. Helms.

The said witness, John E. Helms, of lawful age, having been duly sworn, deposed as follows:

146 Ques. Did you ever have any conversation with S. Vail regarding the property in controversy in this case? If so, please state when & where & what the conversation was.

Ans. I met Mr. Vail at Nashville in . He was then, as he said, on his way to the western country. After the usual inquiries as to the health of friends and acquaintances in Knoxville, (Mr. Vail being directly from that place,) I enquired if he was leaving Knoxville permanently. He answered, "I am. I have sold out, and do not know that I will ever see the place again." I enquired what price he got for his storehouse. He answered $5,000, (or $5,500;) I do not now recollect which. I asked him why he sold it so low; that the property, I thought, was worth more money. He answered that he could have got nine thousand dollars for it by giving a warrantee title, but the property having already paid him handsomely in rents, he preferred taking the price he got for it to binding himself any stronger than he

147 did, or words to that effect. He further said, in the same conversation, that he had received in rents for the property from eight to twelve thousand dollars.

(The def't Ludlow excepts to all of the above that seeks to bind him as incompetent.)

Ques. 2 by same. Does complainant own a house & lot adjoining the one now owned by Ludlow?

Ans. I only know that the property adjoining the storehouse or property in dispute has been regarded as the property of Dr. J. G. M. Ramsey myself since my earliest recollection.

Ques. 3. Is not this last-named property of less value than the property in dispute?

Ans. Yes; so far as my knowlege of real estate goes, it is.

Ques. 3. Had this property been levied upon & sold, would it have brought the White debt?

Ans. If the White debt is, as said by the complainant's solici-

148 tor, no more than $300, or something like that amount, I answer that the property would bring that sum at any time.

Cross-examined by def't:

Question. To whom did Vail say he had sold the property? In what year did the conversation take place? Do you, of your own knowledge, know that he had sold the storehouse at the time of the conversation?

Ans. I do not remember that the name was mentioned; if it was, being a strange one to me I did not retain it. I do not remember the year the conversation was had, but if time is given can furnish it. I have no knowledge myself that at the time of the conversation with Vail the sale referred to had been effected.

(1 day.) JOHN E. HELMS.

The foregoing depositions were taken before me, as stated in the caption, and reduced to writing by myself and the witnesses. And I

149 certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed them up and delivered them to M. L. Hall, clerk of the United States circuit court for

that my understanding was that it was a chancery title. Said J. R. Ludlow, having doubts about the title, then consulted a lawyer
155 of Knoxville named Murdock, who pronounced the title good. Said S. Vail told me to sell the property, and to not make any guarantees as to the title of the property, and that he would only give the same kind of title he had rec'd. I refused to make any guarantees whatever as to the title of the property. Said J. R. Ludlow said his att'y, Mr. Murdock, had satisfied him as to the soundness of the title. Some time in August, 1868, Stephen Vail came to me and said that if he had given any guarantee to the title of the property sold to J. R. Ludlow, that he done it through mistake, as he had refused to make any guarantee whatever.

On cross-examination by defendants' solicitor, the witness states as follows:

Stephen Vail's residence was at Knoxville, Tenn., at the time the negotiation was made between him & J. R. Ludlow. I know of know conversation that occurred between S. Vail & J. R. Ludlow when
156 I was not present, though they may have conversed upon the subject.

I, James T. Abernathy, am one of the subscribing witnesses to the deed of conveyance now shown to me, executed by Stephen Vail on the 9th of March, 1866, to J. R. Ludlow, and marked Exhibit "B," to said Ludlow in this case. I was present when said Stephen Vail sighned the deed, and I do not remember whether the deed was read to S. Vail before he signed it, or whether he [he] read it himself.

I think S. Vail was in sound mind when the trade was made, and when he sighned the deed.

I do not remember of any conversation between Dr. Ludlow & myself before the deed was executed about the note of six hundred and eighty doll's, bearing date of 11th Nov., 1865, payable to Mariah J. Sawyers, and mentioned in said deed.

I do not remember whether I made any other negotiation
157 of property with said J. R. Ludlow on the 9th of March, 1866, but the Gay-st. property. From my best recollection Mr. S. Vail was a merchant in Knoxville at the time he placed his property in my hands, as ag't, for sale, and removed from Knoxville some three or four months after sale was made. Property on the 9th of March, 1866, rented for a much higher price than the interest on the money value of the property, and also at this time.

Re-examination by compl't:

At the time Vail signed the deed referred to, was he not under the impression that it was a quit-claim deed, and did not Ludlow so understand it that way also?

(The defendant, by his solicitor, excepts to the foregoing question, because he says that, if Vail was of sound mind when he executed the deed, the legal presumption is that he knew its contents, and Vail's impressions, unless stated at the very time the deed was signed, cannot be given in evidence.
158 The commissioner declines to decide this objection, and, after taking the answer of the witness, refers it to the court.)

Ans. At the time S. Vail & J. R. Ludlow conversed about the trade, Stephen Vail told J. R. Ludlow that he would give nothing but a quit-claim deed.

Question by defendants' solicitor When and in whose presence did

the conversation last mentioned by you take place? How long was it before the day upon which the deed was made?

Answer. The conversation took place in my office on Gay street, Knoxville, Tenn., on or about the 9th of March, 1866, in my presence, and in the presence of George Simmons. I believe that the conversation between S. Vail & J. R. Ludlow occurred on the 9th of March, 1866, some time in the forenoon, but how long before the deed was executed I do not now remember. The conversation might have occurred at the time S. Vail sighned the deed at Mr. Ja's R.
159 Cocke's office, but I do not remember wether it did their or not.

And further this deponent sayeth not.

(1 day.) J. T. ABERNATHY.

The foregoing depositions were taken before me, as stated in the caption, and reduced to writing by the witnesses. And I certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed them up and delivered them to M. L. Hall, clerk of the U. S. courts for the district of East Tennessee, at his office in Knoxville, Tennessee, without being out of my possession, or altered after they were taken.

Given under my hand the 7th day of January, 1869.

H. M. AIKIN,
U. S. Com'r for Dist. of East Tenn.

Bill of costs.

Wit. D. H. Deaderick, 1 day	1 50
" J. T. Abernathy do.	1 50
Com'r H. M. Aikin, 2 depositions, @ 1 00	2 00

160 Endorsed: Rec'd this package, sealed up, from the hands of H. M. Aikin, the commissioner before whom the within depositions were taken, which was then opened by me, & filed June 23, 1868.

M. L. HALL, *Clerk.*

In the circuit court of the United States, in the 6th circuit for the district of East Tennessee.

J. G. M. RAMSEY
vs.
C. WHITE, S. VAIL, AND J. R. LUDLOW.

Depositions of Charles Morrow, J. W. North, Horace Foster, James Rodgers, Jno. S. Vangilder, E. J. Sanford, J. T. Abernathy, and T. M. Schlier, witnesses for the defendant J. R. Ludlow in the above case, taken by consent on the 22nd day of June, 1868, at my office in Knoxville, Tenn., in the presence of J. C. Ramsey, complainant's solicitor, and respondent J. R. Ludlow.

Cha's Morrow.

The said witness, Charles Morrow, aged 64 years, having been duly sworn, deposed as follows:

161 In the years 1865-'6 I was an acting justice of the peace for Knox County, residing in Knoxville. I know the property in controversy, and was present at the sale made by the C. & M. in January,

1865, when it was sold to S. Vail for, I think, $50 or $5,100 00. Vail seemed, at the time he was bidding, to be fearful that he was bidding too much. I remarked to him that if everything worked off right, the property would be worth $6,000; but, if otherwise, he was paying dear for his whistle. I would not, considering the condition of the times, have bought the property at any price. The U. S. government was, at that time, confiscating the property of leading rebels. Had the times been quiet & ordinary, I would have given 6,000 00 for the property. It was valued at 6,000 00 before the war. At the time of the sale of the C. & M. the property was out of repair. I would not, upon the day of sale, have given as much for the property as Vail did.

Upon cross-examination witness stated:

162 In 1865, I think, the property in question could have been put up for 50 or $5,500 00. I am acquainted with Sam'l T. Atkin, & regard him as an excellent judge of real estate. I would not rely upon his valuation sooner than upon my own. I have been engaged in building 45 years.

And further this deponent saith not.

(1 day.) CHARLES MORROW.

J. W. North.

The said witness, J. W. North, of lawful age, having been duly sworn, deposed as follows:

Question. State any facts in your knowledge relative to any enquiry or examination made by, or at the instance of, the def't J. R. Ludlow as to the title to the property in this cause before he purchased the same of Stephen Vail, and what information, if any, was communicated to him at or before said purchase as to the validity of the title, and by whom.

Ans. Dr. Ludlow called on me, before he purchased the property in controversy, to examine the title of the property. I was
163 then in the practice of law at Knoxville. I examined the proceedings in the chancery court and the decree under which the property was sold, and informed him that, in my opinion, the proceedings were regular, and that the title was safe and reliable. I informed the doctor also of what further examination I had made, and that I should not hesitate to invest money in the property, for that I considered the title entirely good. I called on the clerk and master, and examined the books and records in his office, and conversed with him in regard to the case.

On cross-examination witness stated:

I had been practicing law in Tennessee but a few weeks before making this examination and continued in the practice but a few weeks afterwards. I have been engaged in the practice most of the time for 24 years, 5 years in New York, some 12 years in Minnesota, and be-
164 tween 4 & 5 years in Nevada, a portion of which time I was the United States district judge for the territory of Nevada. I came from Nevada to Tennessee. I do not profess to be familiar with the practice & usages & decisions of chancery courts in this State. I, however, took occasion to consult with Chancellor Rodgers with regard to the practice & usages of chancery courts in this State, who assured me that they were, in the main, about the same as in the State of New

York. I have made sufficient examination myself to satisfy me that this is the case. Dr. Ludlow seemed desirous of knowing whether the title was good or not, and, after making examination, gave him my opinion, tho' I did not inform him particularly of all the steps taken in the case. I simply informed him that the proceedings were regular.

And further this deponent saith not.

(1 day.) J. W. NORTH.

Horace Foster.

The said witness, Horace Foster, aged 52 years, having been duly sworn, deposes as follows:

165 I am acquainted with the property in controversy in this case. I was present at the sale made by the C. & M. of the chancery court at Knoxville, in January, 1865. I attended for the purpose of bidding, but do not now remember whether I did so or not. I intended to bid as high as $5,000 00, but not above that sum. It sold, I think, for $5,100 00. The way property was selling in Knoxville, and, under all the circumstances, I think, it brought its value. Some months after the C. & M.'s sale I went to Mr. Vail & asked him what he would take for the property. In company with Mr. Vail, I examined the property with a view to purchase it. Mr. Vail offered it to me at $6,000 00, and I told him I would not give it. He afterwards, I think, offered it to me for $5,500 00. I declined purchasing at this sum as the property was in bad repair, much more so than I had thought previous to my examination; the basement was almost untenable; a good deal of the

166 plastering had fallen off in the upper stories. Since Dr. Ludlow purchased the property, he has put a good deal of repair upon it. The condition of the country is much more settled, & I now regard the property as worth $7,000 00; $2,000 00 more than when the sale was made in 1865.

On cross-examination witness testified:

That the property was renting very high at the time Vail offered it to me & held this out as an inducement for me to purchase.

And further this deponent saith not.

(1 day.) H. FOSTER.

James Rodgers.

The said witness, James Rodgers, of lawful age, having been duly sworn, deposes as follows:

I am acquainted with the property in controversy, & have known it ever since it was built. In January, 1865, I do not think it was worth more than 5 or $6,000 00. Some time afterwards I was offered

167 the adjoining block, which is the same size & in good repair, for $6,000, & it was sold shortly afterwards for less money. In 1865, at the time of the sale, the property in controversy in this case was in very bad repair. Since Dr. Ludlow purchased it there has been a good deal of repair put upon it.

On cross-examination witness stated:

In 1865 all the stores on the street were renting at heavy prices; I do not know how much Vail was renting this property at. I am acquainted with Sam'l T. Atkin; ordinarily, I think, his judgment is good with regard to the value of property; he was not here, however, as I

think, when the sale was made, and consequently could form no definite idea concerning the value of property here. The rents, above spoken of, were no criterion of the value of the properties so renting.

And further this deponent saith not.

(1 day.) JAMES RODGERS.

J. S. Van Gilder.

168 The said witness, J. S. Van Gilder, of lawful age, having been duly sworn, deposed as follows:

I have been acquainted with the property in controversy ever since it was built. Before the war I should think it would have been worth about $6,000 00. In January, 1865, at the time it was sold by the C. & M., under the then existing circumstances, I should think it would have been worth from 5 to $6,000 00. Property would sell for less then, tho' it would rent for twice as much as it would now. I should think the property would now sell at a cash sale for from $6,500 to $7,000 00. At the time of the sale the property was in bad repair.

And further this deponent saith not.

(1 day.) JNO. S. VAN GILDER.

E. J. Sanford.

The said witness, E. J. Sanford, aged 36 years, having been duly sworn, deposed as follows:

I have known the property in controversy ever since it was built. In January, 1865, at the time of the sale, I think it was worth not
169 exceeding $5,000 00. At a cash sale I think it would bring now $6,500 00.

And further this deponent saith not.

(1 day.) E. J. SANFORD.

J. T. Abernathy.

The said witness, J. T. Abernathy, aged 35 years, having been duly sworn, deposes as follows:

State any fact in your knowledge relative to any enquiry or examination made by or at the instance of the def't Ludlow as to the title to the property in this case before he purchased the same of Stephen Vail, and what information, if any, was communicated to him at or before said purchase as to the validity of the title and by whom?

Answer. In 1865–'6 I was engaged in the business of a real estate agent, & this property was placed in my hands by S. Vail, who told me he held it by a chancery title. Before purchasing, Dr. Ludlow came to the office in company with Mr. Murdock, who had examined the title. Dr. Ludlow took a good deal of pains in satisfying himself with regard to the title, securing counsel for that purpose.

170 On cross-examination witness stated:

Immediately after selling his property here Vail left.

On re-examination witness stated:

Some time after making this sale I sold a piece of property for Mrs. Vail, situated upon Cumberland st., in this city. Vail told Dr. Ludlow in my presence that the title was good.

(1 day.) J. T. ABERNATHY.

T. M. Schlier.

The said witness, T. M. Schlier, of lawful age, having been duly sworn, deposes as follows:

I am occupying the upper story of the property in controversy, & have occupied it since April 23, 1867. When I went into the house the whole building was in bad repair. Since I have occupied the house Dr.
171 Ludlow has had the roof fixed and has had a cistern built at considerable expense. Has repaired old & put up new guttering. He has also bricked up some 4 or 5 windows, which rendered the house unsafe, & repaired chimneys & built a flue. I leased the 3rd story of the house from Dr. Ludlow for 5 years at $15 00 per month, and, in consideration of the length of the lease and the low rent, I was to make all the permanent improvements necessary for carrying on my business. I have made permanent improvements, amounting to over $600, in pursuance of the terms of the lease.

And further this deponent saith not.

(1 day.) T. M. SCHLIER.

The foregoing depositions were taken before me, as stated in the caption, and reduced to writing by me. And I certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed them up and delivered them to M. L. Hall, esq., clerk of the United States circuit court for the eastern district of Tennes-
172 see, at his office in Knoxville, without being out of my possession or altered after they were taken.

Given under my hand and seal of office June 22, 1868.

[SEAL.] H. M. AIKEN,
U. S. Com'r C. C't., Dist. of East Tenn.

Bill of costs.

Com'r H. M. Aiken, 8 depositions, *a* 1 00			$8 00
Wit. Charles Morrow,	1 day		1 50
" J. W. North,	"		1 50
" Horace Foster,	"		1 50
" James Rodgers,	"		1 50
" Jno. S. Vangilder,	"		1 50
" E. J. Sanford,	"		1 50
" J. T. Abernathy,	"		1 50
" T. M. Schlier	"		1 50

Endorsed: Rec'd this package, sealed up, from the hand of H. M. Aiken, the commissioner before whom these depositions were taken, which was then opened by me & filed June 23, 1868.

M. L. HALL, *Clerk.*

173 In the circuit court of the United States, in the 6th circuit, for the eastern district of Tennessee.

J. G. M. RAMSEY
vs.
C. WHITE, S. VAIL, & J. R. LUDLOW.

Deposition of J. R. Ludlow, witness for the respondents in the above case, taken by consent on the 23 day of June, 1868, at my office in Knoxville, in the presence of J. C. Ramsey, complainant's solicitor, & E. J. Brooks, solicitor for respondents.

J. R. Ludlow.

The said J. R. Ludlow, aged 43 years, having been duly sworn, deposes as follows:

I became acquainted with the real estate firm of Mabry & Abernathy in the spring of 1866, & frequently visited their office. During one of my visits there Mr. Abernathy called my attention to some property he had for sale, and among the rest the property in controversy in this case. He informed me that Mr. Vail was desirous of selling, & that it was a good property; that there was no question about the title;
174 that it was a chancery court title, which was considered the best in this country. I examined the property, and liking it I employed Judge W. T. Worth, a practicing attorney of this place, to examine the title. He made an examination of the title and pronounced it good; & upon his representations & that of others, I purchased the propertey in controversy, together with another piece of property embraced in the same deed. I had not a shadow of doubt as to the validity of the title, or I should not have purchased it. Mr. Vail assured me there was no question about the title. For the two properties included in the deed, I gave him (Vail) $5,700 00 cash down, and assumed a debt on the "Sawyers" property, the other piece mentioned in the deed, making together with the cash payment the sum of $6,400 00. When I purchased the property it was very much out of repair from garret to cellar. The roof was an old shingle one, leaking badly, with a broken sky-light. The ceiling was falling off in
175 the third story, more or less, over its whole extent. Holes had been broken in the walls by the previous tenants. The partitions were broken to a very considerable extent. The spouting & guttering was in very bad condition, so that the water was running down the walls & damaging the house. The 3rd story was occupied by Mr. Patterson as a printing office. The heavy presses used in his business had damaged the building, & when he left it was in a very bad condition, & unfit to be occupied. The second story was in about as bad condition as the 3rd. The ceiling was falling & the side walls damaged. A great deal of the sash had been removed, & at least half the lights were broken. The lower room was not in good condition, the water had come through from the roof & caused the ceiling to drop in places. The basement was in very bad condition also. The amount of improvements put upon the house by myself & my tenants, for which
176 they were allowed deductions of rent, would be somewhere in the neighborhood of 12 or $1,500 00. The building still needs additional repairs. It will take $500 00 to put it in fair condition.

On cross-examination by J. C. Ramsey, witness testified:

The 3rd floor was fitted up for a photograph gallery in the spring 1868. This floor was rented to T. M. Schlier, for a term of 5 years, at the reduced rent of $15 00 per month. It is probable that Schlier wished me to make the necessary improvements to carry on his business. Schlier declined to rent on any terms unless I would put a cistern in for his use. I think it probable that if the 3rd floor had been fixed up when Patterson left it, as it now is, it might have been rented. I never had an applicant for it until Schlier came along, & I had to coax a good deal to get him into it. As soon as I purchased the
177 building I had the windows repaired. The club-room was first repaired in the latter part of 1866, or the early part of 1867. The club rented, I think, for a year, & were to fit the room in consideration of a reduced rent. Had the room been fitted up in fine condition when

I purchased the house it might have been rented sooner than it was. I never had an application for it, however, until the club applied for it. About 50 feet of the 2nd story—the hall—has never been put in good repair. I re-sashed the room, & since some of the glass have been broken out & boards have been placed over the broken lights. The ceiling is not in good condition. The room is in as good condition as when occupied by the Johnson Club. Had the hall have been fitted up when Patterson left it, I think the chances would have been better for renting. It is too small for a hall and too large for an office, & hence
178 the difficulty in renting. It might be cut up into offices. I glazed the lower story when I first purchased. It was fitted up in its present style this spring. The present tenants fitted it up as it now is, in consideration of a reduction of rent. If it had been fitted up as it now is when I first purchased it, it could not have been rented for more than it was. After the complainant was put in possession by the federal court, I accompanied my attorney to Chancellor Rodgers' boarding place, and applied, thro' my attorney, for a writ of possession. I found the chancellor in a feeble condition. He died soon afterward; a few weeks, I think. It may have been a week or 10 days after I got the writ that I obtained possession of the building. I do not know that Judge Trigg was here when the writ was granted. I came to Knoxville to reside in 1866.

And further this deponent saith not.

(1 day.) J. R. LUDLOW.

179 The foregoing deposition was taken before me, as stated in the caption, and reduced to writing by me. And I certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed it up and delivered it to M. L. Hall, clerk of the U. S. circuit court for the eastern district of Tennessee, at his office in Knoxville, without being out of my possession or altered after it was taken.

Given under my hand and official seal June 23, 1868.

[SEAL.] H. M. AIKIN,
U. S. Com'r, &c.

Bill of costs.

Com'r H. M. Aikin, 1 depo..... 1 00
Wit. J. R. Ludlow, 1 day 1 50

Endorsed: Rec'd this deposition, sealed up, from the hand of H. M. Aikin, the commissioner before whom the same was taken, which was then opened by me & filed June 23, 1868.

M. L. HALL, *Clerk.*

180 And afterwards, at the said January term, 1869, of said U. S. circuit court, the following proceeding was had, to wit:

Decree.

MONDAY MORNING, *February* 22, 1869.

The court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

J. G. M. RAMSEY, COMP'T,
vs.
CYNTHIA S. WHITE ET AL., DEF'T. } In equity.

This cause came on to be heard at this term of the court, and was

argued by counsel; and on consideration thereof it was adjudged, ordered, and decreed as follows:

That the attachment mentioned in the pleadings, which was sued out of the chancery court of Knox County upon the bill filed by the defendant, Cynthia S. White, vs. the complainant, J. G. M. Ramsey, was not, for want of a sufficient affidavit, issued in conformity to the at-
181 tachment laws of the State of Tennessee, and that the levy of said attachment, and the publication thereon, were not equivalent to personal service upon the defendent in the proceeding, J. G. M. Ramsey, and that the said chancery court of Knox County acquired no jurisdiction over the person of the said J. G. M. Ramsey, the defendent in said attachment proceeding, nor of the house and lot attached therein; that the decree rendered by the said chancery court, of October term, 1864, ordering a sale of the house & lot in the pleadings mentioned, and the decree of said chancery court rendered at January term, 1865, confirming the sale of said property, and divesting the title of the same out of the complainant in this cause, were null and void, and the defendent, Vail, the purchaser at the sale, acquired no title under or by virtue of said decrees or sale, and that the title of the complainant in and to the said house & lot remains unimpaired thereby; that the deed which was made by the defendant Vail to the defendant
182 Ludlow, who purchased from him, conferred no title upon said Ludlow, and under the circumstances of the purchase made by him of said house & lot, the said Ludlow did not occupy the relation of a bona-fide purchaser without notice. And the decrees aforesaid of the said chancery court, and the deed of conveyance from the defendant Vail to the defendant Ludlow, constituting a cloud upon the title of complainant to the aforesaid house & lot, it is ordered that the same be, and they are hereby, removed as such cloud. But the said house and lot in controversy being in the hands of a receiver appointed by this court to lease or rent the same, and to collect the accruing rents, the court declines to decree the possession thereof to the complainant until after the report of the commissioner upon the account for the rents and profits, hereinafter to be ordered.

183 And it is further ordered that James C. J. Williams, who is hereby appointed a commissioner for that purpose, do make and state an account of the rents and profits of said house and lot during the time the same was in the possession of the defendants Vail and Ludlow after the sale thereof by virtue [by virtue] of the chancery court decrees aforesaid. The commissioner will state the amounts received by the said Vail and Ludlow separately, and in stating the account with defendant Vail he will allow him a credit for the paid by him on the decree in favor of the defendant Cynthia S. White. The com'r will also state an account of the necessary & permanent improvements made by def'ts Vail or Ludlow, or either of them, during the time they held said property; but whether they will be allowed as a credit is reserved until the coming in of the report. The commissioner will state specially any matter thought pertinent by himself or required by
184 either of the parties to be stated, and report to this court during the third week in March next, if practicable; and all questions not herein expressly decided are reserved until the coming in of said report.

Deposition of J. R. Ludlow touching account.

In the circuit court of U. S., in the 6th circuit, for the eastern district of Tennessee.

J. G. M. RAMSEY
vs.
CYNTHIA S. WHITE ET AL.

Deposition of J. R. Ludlow, taken before me as commissioner to take an account in the above cause.

Quest. 1st. Please state how long you have held possession of the property in litigation in this cause, and known as "Ramsey's Block," and how much rent you have received for the same.

Ans. I received possession on the 15th of March, 1866, and retained the possession until the 15th of July, or thereabouts, when it was dis-
185 possessed by the U. S. marshall by order of Judge Trigg. About the 15th of the following August I was repossessed, by the sheriff of Knox Co., by order of Chancellor Rogers. From the above date, August 15th, 1866, I held uninterrupted possession up till the time it went into the hands of a receiver, which was the 24th of June, 1868. From the 15th of March, 1866, to 15th of April, '66, I received $200, the balance of Vail's lease. I leased the above-mentioned property to L. David from the 15th of Apr., 1866, to the 1st of March, 1867, for $1,000, during which time I received $900, Ramsey getting the other hundred for the month he [he] held possession. I rented the storeroom from the 1st of March, 1867, to 1st of March, 1868, to L. David, for $1,200 00. From 1st of March, 1868, I rented to Richards & Co., for one year, at $80 00 per month, but the property went into the hands of a receiver on the 24th of the following June; I, up to that time,
186 receiving $320, four months' rent. Rent for 2 and 3 stories: I received for the second story from J. W. Patterson, from the 7th of Mar., 1866, to the 7th of June, '66, $75 00; from the 7th of June, '66, to 7th of July, '66, he, J. W. Patterson, paid me $50 00 for the rent of 2nd and 3rd stories, using one of the rooms for a club-room. About this time, up to the 7th of Aug., J. C. Ramsey collected the rent. From the 7th of Aug. to 7th of Sep. I collected the rent, $50 00, from J. W. Patterson. The two stories were then vacated and not rented until Apr. 1st, '67. when I rented a room in the second story to a club until the 29th of February, '68, for $107 50. The room was then vacated and unoccupied, as well as I can recollect, until 1st of May, at which time I rented to Dr. Graves for $12½ per month, and received two months' rent, $25 00, when it went out of my hands. 3rd story: On the 22nd of Apr., 1867, I rented 3rd story to Schlier for 5 years, at 15 per
187 month. I collected rent to 22nd of July, 1868, amounting to $225 00. I received, perhaps, $15 or $20 00 for casual rents during 1866, growing out of the room known as "Ramsey's Hall."

Ques. 2nd. Please state what sums you have expended in repairing and improving said property.

In 1866 I expended for a water tank, $50 00; glass, putty, and window sash, $65 00; repairs to roof, $14 00; paving side-walk, $22 30; glass and putty, $12 40; for carpenter work, $8 33; tin work, $2 00. For 1867 I expended, tin work, $6 28; repairs, $3 00; building sistern, closing windows, and cutting flue, and other repairs, $250 00; for spouting, guttering, and roofing, $100 00. The above include all expenditures

of which I have any memorandum. The above expenditures were rendered absolutely necessary to renting and insuring.

Ques. 3rd. What sums have you paid for taxes and insurance?

Ans. In 1866 I paid corporation tax, $108 75; for State and
188 county, $52 32. For 1867 I paid corporation tax, $97 50; State and county, $83 20. For insurance in 1867 I paid $98 50.

And further this deponent saith not.

J. R. LUDLOW.

The foregoing deposition was taken before me as stated in the caption, and reduced to writing by me. And I certify that I am not interested in the cause, nor of kin or counsel to either of the parties.

Given under my hand this the 13th day of March, 1869.

J. C. J. WILLIAMS, *Commissioner.*

The within deposition was sealed up and delivered by me to M. L. Hall, clerk of U. S. circuit court, without being out of my possession or altered after it was taken.

13th March, 1869.

J. C. J. WILLIAMS, *Com.*

189 *Report of commissioner.*

Circuit court of the U. S., in the 6th circuit, for the east dist. of Tennessee.

J. G. M. RAMSEY
vs.
CYNTHIA S. WHITE ET AL.

Report of J. C. J. Williams, who was appointed by the court at its January term, 1869, commissioner to take an account in the above cause of the rents and profits arising out of a certain storehouse situate on Gay st., Knoxville, known as "Ramsey's Block," and accruing to S. Vail and J. R. Ludlow.

The commissioner respectfully reports that, having been notified of his appointment by service upon him of a copy of decree and appointment made in this case by the deputy clerk of this court, he has made an examination of the papers now on file, and taken some proof, tho' not until notifying counsel on each side of his intent in the premises, and submits the following:

S. Vail.

	Dr.	Cr.
1865.		
To rent received from J. David & Bro., & L. David & Co., jointly, to 1st of January, 1866, a $200 00 per month	1,700 00	.....
To rent rec'd of J. L. Cooper from Feb. 1st, '65, to Jan. 1st, '66	1,375 00	.....
190 1866.		
To rent rec'd of L. David & Co. from Jan. 1, '66, to Mar. 15, '66	500 00	.....
To rent rec'd of J. L. Cooper from Jan. 1, 1866, to 1st Feb., '66	125 00	.....
Cr. by cash to Mrs. Cynthia S. White	.....	332 00
	3,700 00	332 00
	332 00	
Balance due from S. Vail	3,368 00	

J. R. Ludlow.

		Dr.	Cr.
	1866.		
	To rent rec'd of L. David & Co. from 15th of Mar. to 15 of Apr	200 00	
	" " " " " " " " from 15th of April, '66, to 1st of March, '67, $1,000 00,		
	$100 00, which J. C. R. received	900 00	
	To rent rec'd of J. W. Patterson from 7th Mar., '66, to 7th June, '66	75 00	
	" " " " " " " " June, " " " July, "	50 00	
	" " " " " " " " Aug., " " " Sept. "	50 00	
	Cr. By cash for water-tank, glass, putty, & window sash		115 00
	" " " " repairing roof & paving side-walk		36 00
	" " " " glass & putty & carpenter work		20 73
	" " " " tin work		2 00
	" " " " corporation, State, & county tax		161 07
	1867.		
	To rent rec'd of L. David & Co. from 1st Mar., '67, to 1st Mar., '68	1,200 00	
	" " " " club " 1st Apr., " " 29 Feb., '68	107 50	
	" " " " T. M. Schlier " 22 " " " 22 Dec., '67	120 00	
	Cr. By cash for tin work and repairs		9 28
	" " " " insurance for '67		98 50
	" " " " building cistern, closing windows, cutting flue, &c		250 00
191	Cr. by cash for spouting, guttering and roofing		100 00
	" " " " corporation, State, & county tax		180 70
	1868.		
	To rent rec'd of Richards & Co. from 1 Mar., '68, to 24 June, '68	320 00	
	" " " " Dr. Graves for months of May & June, '68	25 00	
	" " " " T. M. Schlier Dec. 22, '67, to July 22, '68	105 00	
	" casual rents for "Ramsey's Hall"	20 00	
		3,172 50	973 58
	Balance due to fund		1,998 92
		2,972 50	2,972 50

The commissioner asks that the deposition of J. R. Ludlow, taken before him, and the depositions of L. David and J. L. Cooper, now on file, be made a part of his report.

Respectfully,

J. C. J. WILLIAMS, *Commissioner.*

Endorsed: J. G. M. Ramsey vs. Cynthia S. White et al. Report of James C. J. Williams, commissioner, to adjourned term of January, 1869. Filed Mar. , 1869.

Amended report of commissioner.

Circuit court of the United States, in the 6th circuit, for the eastern dist. of Tennessee.

192 J. G. M. RAMSEY
vs.
CYNTHIA S. WHITE ET AL.

The commissioner reports that, having been notified of his appointment as special commissioner in the above cause by service upon him of a copy of decree and appointment by the deputy clerk of this court, he has made an examination of the papers now on file and taken some proof, and respectfully submits the following rents, profits, and expenditures of S. Vail and J. R. Ludlow, growing out of a certain storehouse situate on Gay street, known as "Ramsey's Block."

S. Vail to Ramsey's Block.

	Dr.	Cr.
1865.		
To rent rec'd of J. David & Bro., & L. David & Co., jointly, to 1st of Jan., 1866, *a* $200 00 per month	1,700 00	
To rent rec'd of J. L. Cooper from Feb. 1, '65, to Jan. 1st, '66	1,375 00	
To 3 months' rent rec'd of J. W. Patterson, *a* $25 per month	75 00	
1866.		
To rent rec'd of L. David & Co., from Jan. 1st, '66, to March 15th, '66, *a* $200 per month	500 00	
To rent rec'd of J. L. Cooper from Jan. 1st, '66, to Feb. 1st, '66	125 00	
By cash to Mrs. Cynthia S. White		332 00
	3,775 00	332 00
Balance due of S. Vail		3,443 00
	3,775 00	3,775 00

193 *J. R. Ludlow to Ramsey's Block.*

	Dr.	Cr.
1866.		
To rent rec'd of L. David & Co. from 15 of March, '66, to 15 Apr., '66	200 00	
To rent rec'd of L. David & Co. from 15 Apr., '66, to 1st March, '66	900 00	
To rent rec'd of J. W. Patterson from 7 Mar., '66, to 7 June, '66	75 00	
To rent rec'd of J. W. Patterson from 7 June, '66, to 7 July, '66	50 00	
To rent rec'd of J. W. Patterson from 7 Aug., '66, to 7 Sep., '66	50 00	
By cash for water tank, glass, putty, and window sash		115 00
By cash for repairing roof and paving side walk		36 30
By cash for glass, putty, carpenter and tin work		22 73
By cash for corporation, State, and county tax		161 07
1867.		
To rent rec'd of L. David & Co. from 1st March, '67, to 1 Mar., '68	1,200 00	
To rent rec'd of a club from 1st Apr., '67, to 29th Feb., '68	107 50	
To rent rec'd of T. M. Schlier from 22 Apr., '67, to 22 Dec., '67	120 00	
By cash for tinwork and repairs		9 28
" " " insurance '67		98 50
" " " building cistern, closing windows, cutting flue, and other repairs		250 00
By cash for spouting, guttering, & roofing		100 00
By cash for corporation, State, and county tax for '67		180 70
To rent rec'd of Richards & Co. from 1 March, '68, to 24 June, '68	320 00	
" " " " Dr. Greaves for months of May & June, '68	25 00	
" " " " T. M. Schlier from Dec. 22, '67, to July 22, '68	105 00	
To casual rents for Ramsey's Hall	20 00	
	3,172 50	973 58
Balance due of J. R. Ludlow		2,198 92
	3,172 50	3,172 50

194 The commissioner asks that the deposition of J. R. Ludlow, taken before him, and the depositions of L. David and J. L. Cooper, now on file, be made part of his report.

Respectfully,

J. C. J. WILLIAMS, *Commissioner.*

Endorsed: No. . J. G. M. Ramsey vs. Cynthia S. White et al. Amended report of J. C. J. Williams, commissioner, to adjourned term of January, 1869. Filed July 15, 1869. M. L. Hall, clerk.

And afterwards, at the July term, 1869, of said United States circuit court, the following proceeding was had, to wit:

Decree.

SATURDAY MORNING, *August* 21, 1869.

Court met pursuant to adjournment. Present, the Honorable Connally F. Trigg, judge, &c.

J. G. M. RAMSEY
vs.
CYNTHIA S. WHITE ET AL. } No. 160, in equity.

195 This cause coming on to be finally heard and determined on this 21st day of August, one thousand eight hundred and sixty-nine, before the Honorable Connally F. Trigg, judge, &c., upon the bill and amended bill of complainant, the answers and pleas of respondent Ludlow, judgments pro confesso regularly taken against respondents Cynthia S. White and S. Vail, replication, exhibits, and proofs, and upon the interlocutory orders and decrees in the case, and the report of Commissioner J. C. J. Williams, in accordance with the same, which report being unexcepted to is in all things hereby confirmed:

And it appearing to the satisfaction of the court from said report that the respondent S. Vail received as net rents of the house and lot in the pleadings mentioned, during the time he had possession of the same, after deducting all such expenditures as he was subject for repairs, improvements, taxes, &c., the sum of three thousand four hundred and forty-three dollars:

196 It is therefore ordered, adjudged, and decreed by the court that the complainant J. G. M. Ramsey recover of and from the said Stephen Vail the said sum of three thousand four hundred and forty-three dollars, for which execution may issue.

And it further appearing to the satisfaction of the court, from the report of the commissioner, J. C. Williams, appointed by the court to take the account in this case, that the respondent Jacob R. Ludlow has received net rents from the house and lot in the pleadings mentioned, after deducting all such expenditures as he may have made in and about the same for repairs, improvements, taxes, &c., the sum of two thousand one hundred and ninety-eight dollars and ninety-two cents:

It is therefore ordered, adjudged, and decreed by the chancellor that the complainant recover of and from the said Jacob R. Ludlow the said sum of two thousand one hundred and ninety-eight dollars and

197 ninety-two cents, for which execution may issue.

And this court, having at the last or January term, 1869, by an interlocutory decree then pronounced and recorded, and which is made a part of this decree, adjudicated all the general principles of equity involved in the case and necessary to decide the right of the parties, the court is pleased to order, adjudge, and decree that the receiver in this case, James Comfort, pay over to the complainant, James G. M. Ramsey, his agent or attorney, all such monies or bonds as he may have in his hands, according to his report, arising from the rents of the house and lot aforesaid, and that he deliver to the said J. G. M. Ramsey, complainant as aforesaid, his agent or attorney, the possession of the house and lot aforesaid. And it is further ordered, adjudged, and decreed that respondent Jacob R. Ludlow pay the costs of this cause, for which execution is awarded.

It is further ordered by the court that James Comfort, as re-
198 ceiver, retain fifty dollars of the monies in his hands, as compensation for his services in renting out the premises, collecting and investing the funds arising from the rents. And it is further ordered that he pay to J. C. J. Williams twenty-five dollars for taking the account in this case, for which said receiver shall have a credit.

From the foregoing decree, with the exception of so much thereof as makes allowances to James Comfort and J. C. J. Williams, the defendant J. R. Ludlow prays an appeal to the next term of the Supreme Court of the United States, to be held at Washington on the first Monday in December next; and, he having entered into bond with sufficient security, as directed by this court, in the penal sum of forty-five hundred dollars, to prosecute said appeal with effect, or otherwise to pay the amount hereinbefore decreed against him, and all costs and damages that may be adjudged against him, said appeal is granted. And, pending
199 the appeal to the Supreme Court, it is agreed by the parties, through their solicitors, that Peter Staub shall act as receiver in this case, without bond, and with all the powers heretofore conferred by this court in this case upon James Comfort.

Appeal bond.

Know all men by these presents that we, Jacob R. Ludlow and E. J. Stanford, are held and firmly bound unto J. G. M. Ramsey in the penal sum of [of] forty-five hundred dollars; but to be void if the above-bound J. R. Ludlow shall prosecute with effect an appeal this day prayed by and granted to him from a decree pronounced against him, in favor of the said Ramsey, by the hon. circuit court of United States for the dist. of East Tenn., to the next term of the Supreme Court, to be held at Washington City, wherein judgment is pronounced against him for the sum of $2,198 92, and title to certain real estate therein men-
200 tioned is divested out of him & vested in said Ramsey, or otherwise shall pay said sum, with all interest thereon, and such costs and damages as may be awarded against him by reason of failing to prosecute said appeal with effect; otherwise to be of full force & effect.

J. R. LUDLOW. [SEAL.]
E. J. SANFORD. [SEAL.]

Costs.

Bill of costs.

Clerk M. L. Hall, filing 53 papers, *a* 10	5 30
Pro's bond, 1 fol., 15; 3 sum's & seals, *a* 1 20	3 75
Record of decrees & orders, 2,500 w'ds, *a* 15 per fol.	3 75
Indexing, &c.	3 00
Transcript, 40,400 words, *a* 10 per folio	40 40
	56 20
Marshal B. McDaniel, 2 sum's, *a* $2 00	4 00
D. Marshal J. P. Jack, 1 "	2 00
Marshal J. M. Tomeny, 1 " & 481 m's, *a* 6	30 86
Com'r H. M. Aikin, 20 depositions, *a* 1 00	20 00
Wit. J. R. Ludlow, 1 day	1 50
" S. T. Atkin, 2 " *a* 1 50	3 00
" C. A. Mitchel, 1 "	1 50

	Wit. G. M. Hazen, 1 day	1 50
201	Wit. Louis David, 2 days, *a* 1 50	$3 00
	" J. L. Cooper, 1 "	1 50
	Wit. D. A. Deaderick, 2 days *a* 1 50	3 00
	" J. T. Abernathy, 3 " " "	4 50
	" John Baxter, 1 "	1 50
	" John E. Helms, 1 "	1 50
	" Charles Morrow, 1 "	1 50
	" J. W. North, 1 "	1 50
	" Horace Foster, 1 "	1 50
	" James Rodgers, 1 "	1 50
	" Jno. S. VanGilder, 1 "	1 50
	" E. J. Sanford, 1 "	1 50
	" T. M. Schlier, 1 "	1 50
		$146 06

Certificate.

I, M. L. Hall, clerk of the circuit court of the United States for the eastern district of Tennessee, certify that the foregoing transcript is a full, true, and perfect copy of the record and proceedings of said court, in the case therein mentioned, between J. G. M. Ramsey, complainant, and Cynthia S. White, S. Vail, and J. R. Ludlow, respondents, as the same appears from the records of said court.

202 Given under my hand and the seal of said court, at office in Knoxville, in said district, this 27th day of November, 1869.

[SEAL.] M. L. HALL, *Clerk.*

(Indorsement on cover:) No. 346. Jacob R. Ludlow, appellant, vs. J. G. M. Ramsey. E. Tennessee C. C. U. S.
Filed 11th December, 1869.

REC. 346—5

Supreme Court of the United States.

December Term, 1870.—No. 142.

JACOB R. LUDLOW, Appellant,

vs.

J. G. M. RAMSEY.

BRIEF FOR APPELLANT.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF EAST TENNESSEE.

THOMAS A. R. NELSON,
HORACE MAYNARD,
For Appellant.

McGill & Witherow, Printers and Stereotypers, 1107 E street, Washington, D.C.

In the Supreme Court of the United States.

DECEMBER TERM, 1870.

JACOB R. LUDLOW, Appellant,
vs.
J. G. M. RAMSEY.
No. 142.

BRIEF FOR APPELLANT.

Appeal from the Circuit Court of the United States for the district of East Tennessee.

On the 18th of September, 1863, one Cynthia S. White filed her original and attachment bill in the chancery court at Knoxville, Tennessee, against J. G. M. Ramsey, to collect a debt due her by bond or bill single.

A transcript of the record in that suit is contained in the printed record, pp. 17 to 32, both inclusive. In her bill the complainant alleged that J. G. M. Ramsey was indebted to her by bond, bearing date 17 July, 1860, for $300 00; that said Ramsey had left the State or concealed himself, so that the ordinary process of law could not be served upon him, and was the owner of a considerable estate, both real and personal, in Knox county. The prayer of the bill, among other things, was that a sufficient amount of the estate should be attached to satisfy the complainant's demand. (*Record*, p. 18.) An attachment was issued 21 Sep., 1863, and levied on the 25th of the same month, by the sheriff, on "the block and lots known as the Deaderick block, in the city of Knoxville, Knox county, Tennessee." (*Record*, p. 19.) An order of publication was made at Jan-

uary rules, 1864, bearing date 16 January, 1864, notifying the defendant to appear on the first Monday of April next thereafter and make defense. (*Record*, p. 20.) On the 28 Oct., 1864, a decree was pronounced in favor of the complainant for the amount of her debt and costs, in which it is stated that judgment *pro confesso* was regularly taken. (*Record*, p. 25.) The decree recites the levy and directs the sale of the lot by the master, according to the description thereof contained in a deed filed in the cause, executed by John Crozier to defendant, and bearing date 23 June, 1838. (*Record*, p. 25.)

On the 3 January, 1865, the master sold the house and lot to S. Vail for $5,100, and made hi reports of sale, bearing date 4 January, 1864, (meaning 1865,) which is set out in the record, pages 19, 20. The report of sale was confirmed by the decree of 5 January, 1865. (*Record*, p. 26.) A writ of possession was issued 30 January, 1865, but not executed, (p. 22;) and on the 4 April, 1865, a decree was made ordering the parties in possession to appear and show cause why they should not be compelled to vacate the premises, under penalty of an attachment for contempt; but this decree does not appear to have been executed. (*Record*, 26, 27.)

Afterwards, on the 5 July, 1866, a petition was presented to the chancellor by J. R. Ludlow, showing his purchase from Vail, who had been placed in possession under a writ from the chancery court, alleging that Ramsey had been placed in possession by the district court of the United States, on his plea of pardon, in an information case against the property, and that said court had refused to allow petitioner to intervene or become a party, and praying that another writ of possession should issue to place him in possession of the property. (*Record*, 23, 24.) The chancellor awarded the writ, which was duly issued, and Ludlow was put in possession under it on the 13 July, 1866. (*Record*, 24, 25.)

Under the direction of the chancery court the taxes were paid upon the property out of the proceeds of sale

in January, 1866. (*Record*, pp. 27, 28.) From the rule docket it appears that the clerk and master was directed to loan the fund attached by complainants in Brownlow & Ross *vs.* Lyon & Ramsey, which is believed to be the surplus fund arising from the sale of the property after satisfying the decree in favor of Cynthia S. White; but the proceedings in that case, which are referred to in the entry, are not contained in the transcript. They are referred to, however, in John Baxter's deposition, (45.)

On the 23d of September, 1867, Ramsey filed the present bill in the circuit court of the United States for the district of East Tennessee against the said White, Vail, and ~~to-wit~~ Ludlow, assailing the validity of these proceedings and seeking relief against them. Ludlow alone made defense, and the case proceeded as between him and Ramsey.

The grounds upon which these proceedings were assailed in the circuit court of the United States are stated in the original bill. (Record, pp. 1 to 5, and the amended bill, pp. 8 to 11.)

Admitting the justness of the debt claimed by Cynthia S. White, complainant alleged, among other things, in his original bill, that he left Knoxville a short time before the federal troops arrived; that the complainant, Cynthia, did not authorize or direct the sale of the property without redemption; that publication was not properly made; that no publication could reach defendant, who was within the rebel lines while the suit was pending; that a much larger amount of property was levied upon than was requisite to satisfy the debt; that the chancellor knew complainant had a valuable farm, a part of which could have been sold to satisfy the debt; that since the sale the property was rented by Vail for $5,000 per year, and by Ludlow at from $1,800 to $2,000 per year; that the property could not be sold because an information was filed against it on the 21st September, 1864; that Cynthia S. White intervened in that case, and thereby abandoned her suit in chancery;

that the chancery court had no authority to proceed after the seizure by the United States; but the said Cynthia proceeded in that court, and had the property sold, and obtained satisfaction of her judgment; that Vail refused to warrant the title; that Ludlow was not a purchaser for a valuable consideration without notice; and that Chancellor Lucky, who tried and disposed of the cause, was not a lawful chancellor, because he was commissioned by Andrew Johnson, military governor.

In the amended bill, commencing in record, p. 8, it is alleged that said proceedings exhibit no legal ground for issuing an attachment or any "just claim;" that the allegation that the defendant "left the State" or "conceals," &c., is insufficient; that the decree for the sale of the land was obtained by fraud and circumvention, without stating in what manner; that the property was sold without redemption to serve the interests "of some outside and strange persons or persons," and with the view of upholding another attachment said to have been levied on the surplus; that complaimant did not, in her bill, pray to have the property sold on a credit; that the property is not described on the face of the decree, and is still subject to redemption; and that Ludlow had actual knowledge of all the facts, and is not a purchaser for a valuable consideration. The prayer of the bill, in substance, is that the sale be declared null and void, and that Vail and Ludlow be required to account for the rents and profits; or, if the sale is held valid, that complainant be allowed to redeem, &c.

The plea and answer of Jacob R. Ludlow are set out in Record, pp. 12 to 17, both inclusive. The proceedings in the said cause of Cynthia S. White against Ramsey, and the deed from Vail to Ludlow, are pleaded in bar of the jurisdiction of the circuit court of the United States, and, without waiving the benefit of the plea, all the material allegations of the bill are answered. It is insisted in the answer that complainant, having left the State voluntarily, and because of his adherence to the rebellion, has no right to complain of the attachment laws, which he well under-

stood before his departure; that it is shown in the decree that his property was sold, without redemption, at the instance of complainant in that suit; that the recital in the decree that judgment *pro confesso* was regularly taken and entered, is sufficient evidence of publication; that, although all communication with persons residing within the rebel lines was cut off during the war, the complainant had, or might have had, sufficient notice of the proceeding by attachment to remove his case into the supreme court of the State, under the State laws, within twelve months after the decree; that the decree cannot be collaterally attacked in this court; that, although the property attached was of much greater value than the attachment debt, it was the business of complainant to attend pursuant to the law of the State, and have only so much of it sold as would be sufficient to satisfy the debt; that complainant might have communicated with counsel; that the sheriff's return was lawfully and properly amended; that Chancellor Lucky was a judge *de jure* and *de facto;* that the attachment was levied on the 25th September, 1863, more than a year before the proceeding against it by information; that the order of the district court of the United States in that case could not affect the jurisdiction previously acquired by the chancery court; and that respondent was a purchaser from Vail for a valuable consideration without notice, and had fully paid the purchase-money before complainant's bill was filed.

Judgment *pro confesso* was taken, in this case, on the 20 February, 1869, against White and Vail; but by consent of parties the said plea and answer of Ludlow to the original bill were to stand as his plea and answer to the amended bill. (Record, 41, 42.)

The court held that, "for want of a sufficient affidavit," the attachment issued at the suit of White was insufficient; that the chancery court of the State acquired no jurisdiction; and that all the proceedings therein "were null and

void," having no other effect than to throw a "cloud" upon Ramsey's title, the removal of which was the ground assumed by the court for jurisdiction and relief. (p. 58.)

It is not deemed necessary, in this statement of the case, to notice the proceedings in the court below, as to the appointment of a receiver or in taking the account, as to rents and profits; as the controlling questions before this honorable court relate to the jurisdiction of the circuit court of the United States and the validity of the proceedings in the chancery court at Knoxville.

The evidence of S. T. Atkin, C. A. Mitchell, G. M. Hazen, and Louis David, (pp. 42, 43,) for complainant; and D. A. Deaderick, (p. 49,) and Charles Morrow, (p. 51,) Horace Foster, James Rodgers, J. S. Van Gilder, and E. J. Sandford; (pp. 53, 54,) for defendant, relates, chiefly, to the value of the property; and the weight of this testimony shows that, under all the circumstances, Vail paid a fair price at the chancery sale.

The deposition of John Baxter (p. 46) shows, among other things, that it was usual to sell without the right of redemption, and that the surplus proceeds of sale were attached in the suit of Brownlow & Ross *vs.* Ramsey.

The evidence of J. T. Abernathy, (pp. 49 to 51,) as to Vail's declarations not made in the presence of Ludlow, and of John E. Holms, (p. 47,) as to his declarations, made after the sale and in Ludlow's absence, was objected to, was inadmissible, and cannot, in any way, affect Ludlow's purchase.

The depositions of J. R. Ludlow, (p. 56,) and J. W. North, p. 52, and J. T. Abernathy, (p. 54,) show that Ludlow purchased from Vail on the faith of the proceedings in chancery, which he caused to be examined before making the purchase.

Although the deposition of J. T. Abernathy (p. 50) shows that, in the negotiations preceding the sale, Vail told Ludlow he would give nothing but a quit-claim deed, yet, there is no proof, other than Vail's declarations, made after executing the deed, to show that Vail did not know the

contents of the instrument. The deed was witnessed by his agent, Abernathy. The proof is, that Vail was of sound mind and memory. The legal presumption is that he knew the contents, and that all previous parol negotiations were merged in the deed. And if Ludlow had even perpetrated a fraud upon Vail, the complainant, Ramsey, cannot be affected by it; for, if the sale to Vail was legal, his right was extinguished.

Upon the questions, raised in the pleadings and argued in the court below, as to the plea and answer; the jurisdiction of the circuit court of the United States; the validity of the proceedings in the chancery court; the vague and indefinite allegations of fraud in the amended bill; the defense of purchaser for a valuable consideration without notice; and the right of redemption, the following propositions are submitted, with references to the authorities which are supposed to sustain them:

1. AS TO THE FORM OF PLEA AND ANSWER.

This is a proper mode of defense, according to *Story's Eq. Pl.*, § 671 and note 2; *Ibid.*, §§ 672; *Ibid.*, 714, note 2; and *Mitford's Pleading*, 262, top.

Where a bill seeks to impeach a decree for fraud, the proper mode of defense is by plea and answer. (*Mitf. Pl.*, 281, 282, note 2; and pp. 283 to 286, both inclusive.)

The answer, not waiving the plea, is the proper form. (*Mitf. Pl.*, 352, 353, 356, text and notes.)

A defendant may demur, plead, and answer to the same bill; and neither of these defenses overrules the other where they are not inconsistent. (*Mitf. Pl.*, 380.)

The case of *Wills* vs. *Ellis* (3 *Cold.*, 38) does not militate against this position.

2. AS TO THE MATTERS PLEADED—JURISDICTION.

The court below had no jurisdiction of this cause, for the reason that, if there was any error in the attachment bill and proceedings under it, the remedy was by writ of error to the supreme court of Tennessee, under the Code of that State, §§ 3176, 3180. (See also 2 *Black's Rep.*, 545; 5 *Peters' Cond. R.*, 197; 19 *How.*, 271.)

Under the judiciary act suits in equity cannot be sustained, in either of the courts of the United States, in any case where a plain, adequate, and complete remedy may be had at law. (See cases cited in 1 *Brightly's Fed. Dig.*, 256, sec. 1; and 2 *Abbott's Nat. Dig.*, 246; 8 *How.*, 495; 13 *How.*, 563; 8 *Peters*, 128.)

The law gives a remedy within one year on the attachment bond. (Code, §3530.)

The chancery court at Knoxville had jurisdiction of an attachment bill to enforce the collection of a purely legal demand out of the property of the complainant in this case, under the Code of Tennessee, §§ 3455, 3461, 3467, 3470, 3455, 3458, 3532.

The State tribunal having lawfully acquired jurisdiction over the property, the circuit court of the United States, on the equity side, had no jurisdiction to review or annul the action of another court of equity. Its jurisdiction having attached before any relief was sought in the national tribunal, the only mode of correcting its errors, if any were committed, was by petition for rehearing, bill of review, appeal, or writ of error, in the courts of the State, under the Code, §§ 3119, 3120, 3155, 3172, 3176. Under a peculiar provision, the errors, if any, might, possibly, have been corrected, by the chancery court itself, on a writ of error *coram nobis*. (Code, § 3110.)

It has been held that property, in custody of the law under an attachment issued from a State court, cannot be arrested by a warrant from the district court sitting in admiralty to enforce the lien of a material man, and that pending the process so levied, admiralty cannot proceed *in rem*. If the district court has no power to take the property out of the custody of the law, how can the courts of the United States assume a jurisdiction after the property has been disposed of by authority of the State tribunal, which it could not exercise while the same property is *in custodia legis?* The comity due the State tribunals must, necessarily, prohibit the exercise of such a power. This question has been before this honorable court in various

forms. (See the cases cited in 2 *Abb. Nat. Dig.*, 54, *No.* 39; 3 *Pet.*, 299; 10 *Pet.*, 400; 4 *How.*, 4, 17, 471; 20 *How.*, 583; *Conk. Tr.*, 273 to 277; 1 *Abb. Nat. D.*, 440, *No.* 49 *to No.* 53; 2 *ibid*, 246, *No.* 89 *to* 94; 5 *Wallace*, 433.)

As to the effect of the decree, see 5 *Wal.*, 302, 305, 306, 307; 10 *Pet.*, 449; 14 *How.*, 588.

Where a cause has been investigated, a court of equity cannot interfere on the mere ground of injustice. (1 *Sch. and Lef.*, 204.)

And, it may be added, that the objection to the jurisdiction is always available. (1 *Abb., Nat. D.*, 441, *No.* 51.)

Our positions as to the jurisdiction of the court below may be restated and summed up in the following propositions: 1. That the only matter that can be examined in determining the jurisdiction of the chancery court is whether it has jurisdiction of such an attachment case as is presented in the bill, and not whether it has rightfully exercised it. 2. Whenever it is shown by the law that the chancery court had jurisdiction of attachment cases, then it was a question for that court, and not for the circuit court of the United States, to decide whether it would exercise it; and the mode of its exercise can only be inquired into by a revising tribunal, and not by a federal tribunal, having chancery jurisdiction equal only and not superior as a chancery court to the State tribunal. To sustain these positions we rely on (*Tipton* v. *Harris*, *Peck* 423, 424; *Christmas* vs. *Russell*, 5 *Wall.*, 291, 302; *Voorhees* vs. *The Bank*, 10 *Pet.*, 473; *Huff* vs. *Hutchinson*, 14 *How.*, 588; *McGavock* vs. *Bell*, 3 *Cold.*, 512; *Payne* v. *Mooreland*, 15 *Ohio*, 435, and 2 *Abb. Nat. Dig.*, p. 51.)

If these propositions are erroneous, and this honorable court shall hold that the court below could rightfully entertain jurisdiction, then we insist that his honor erred in declaring that the proceedings in the chancery court were of no validity, and proceed to show that Vail, in the first instance and Ludlow as a purchaser under him, acquired a good title in

3. The case of White *vs.* Ramsey.

1. It has been shown that the chancery court had jurisdiction of attachment cases under the Code, § 3461, and also, it may be added, under the Tennessee act of 1859–'60, ch. 127, p. 116, which re-enacts the act of 1836, chap. 43, (*Car. & Nic.*, 106.)

Under this act, which applies to non-residents, no special affidavit is required.

2. The bill of Cynthia S. White alleges that the defendant has "left the State, or so conceals himself that the ordinary process of law cannot be served upon him." The words "left the State" are equivalent to the words "resides out of the State," employed in Code, § 3455, sub-sec. 1. (See 7 *Hum.*, 210, *Drake on Atts.* §§ 107, 105.) If they are not, the statute authorizes an alternative statement, Code § 3470; and that he "conceals himself so that the ordinary process of law cannot be served upon him," is expressly declared one of the causes for suing out the attachment by sub-section 4 in § 3455. (See *Drake on Atts.*, § 102; 3 *Cold.*, 143.)

4. The affidavit is in substantial conformity to the requirements of the Code, §§ 3455, 3469, 3516.

If it is not, the attachment law is to be liberally construct, by § 3477; and no objection lies to the form of the attachment under § 3475.

The word "justly" may be omitted. (*Drake*, § 103.)

5. The fact that publication was duly made is clearly established. The decree of October 28, 1864, (Record, p. 25,) recites that the cause came on to be heard "*on the bill and exhibit, and judgment pro confesso regularly taken in the cause.*" Under the chancery practice of Tennessee a judgment *pro confesso* may be taken at rules before the master, or on any day in term time after the first three days of the appearance term. (*Code*, §§ 4369, 4378, 3529 to 3534, 4352, 4420, sub-section 3, 4421; see also *Heiskell's Digest*, pp. 565 to 570.) No judgment *pro confesso* could have been lawfully taken without personal service of process or publication, and the recital in the decree that the judgment *pro*

confesso was regularly taken is, without more, a conclusive and legal adjudication of the fact of publication, and could not be questioned, even in the supreme court of Tennessee, upon appeal or writ of error, without setting out the evidence on which the chancellor acted. (See 3 *Head.*, 303; 2 *Head.*, 97, 253, 289; 2 *Sneed*, 637; 6 *Hum.*, 378.) Much less could that fact be inquired into in the circuit court of the United States, which, so far as this case is concerned, is only a chancery court of concurrent jurisdiction, and can exercise no supervision or control over the action of the State courts on the same subject-matter. But if the fact can be inquired into, the record, page 20, shows that publication was made at January rules, 1864, and this is substantially proved by D. A. Deaderick, the clerk and master, in record, page 45. (See *Code*, § 3519.)

Publication follows the levy. (*Code* §§ 3518, 3524.)

If the decree of the chancellor would be, as above insisted, conclusive in the supreme court of the State, the court below was bound by it, and could not, in a collateral way, review or annul it. (See 6 *Hum.*, 378; 2 *Head.*, 98, 258; 3 *Head.*, 603; 3 *Abb. Nat. Dig.*, 122, Nos. 139, 142, 146, 152, 154; *Ibid.* 61, No. 124, and also p. 63.)

These questions were discussed and considered by the court in *Cooper* vs. *Lessee of Reynolds*, No. 37, at the present term.

4. As to fraud.

It is admitted that a judgment or decree may be attacked and set aside for fraud, according to 8 *Hum.*, 363, *Story's Eq. J.*, § 252; *Story's Eq. Pl.*, §§ 426, 427; 1 *Sch. & Lef.*, 355, 374, 375, 386; 1 *John. Ch. R.*, 402; 4 *J. C. R.*, 118.

But the circumstances of fraud must be stated in the bill. (*Story's Eq. Pl.*, § 428; *Milford's Pl.*, 112, 114.)

There are in this case no special charges of fraud; and there is no special denial in the answer, for the reason that it was agreed that the answer to the original bill should stand as an answer to the amended bill. (*Record*, pp. 41, 42.)

It cannot, therefore, be said that the question of fraud is either in issue or confessed, according to *Philips* vs. *Overton*,

4 *Hay*, 290, 291; *same case*, 3 *Cooper's ed. Tenn. R.*, 424, foot p.

If, however, the question of fraud in obtaining the decree can be regarded as being in issue, the fraud is not made out by any of the circumstances stated in the bill, or established in evidence, for the following reasons:

1. It is shown by the evidence of John Baxter (p. 46) that the sale so much complained of—without the right of redemption—was not unusual, and was the best mode of collecting complainant's money. He says it was the act of the court; and such a mode of sale is expressly authorized in Code, § 4489.

2. The sale of a house and lot of much greater value than the debt due complainant, Cynthia White, was not, in any possible sense, fraudulent; first, because there is no proof that complainant, Cynthia, directed that specific property to be levied upon, and the charge in her bill (p. 18) was simply, that the defendant was "the owner of a considerable estate, both real and personal, in Knox county;" second, the judgment debtor had a right to direct the sheriff to sell a part only of the real estate, and this, by implication, authorized the sheriff to sell the whole, (see Code, § 3043;) third, if there were any wrong, oppression, or illegality in the chancery sale, an ample remedy at law is given upon the attachment bond in Code, §§ 3530, 3531; (see also 2 *Abb. Nat. Dig.*, 243, No. 58;) fourth, if an officer makes an excessive levy, the sale is not vitiated, but he is liable, as in case of an excessive levy, by execution, (Code, § 3499;) fifth, the inadequacy of price given at a sale of land for taxes does not vitiate the sale, according to *Slater* vs. *Maxwell*, 6 *Wallace*, 268; and in this case, as there is a difference in the opinions of the witnesses as to the value of the property sold, at the time of sale, it cannot be argued, with any plausibility, that there was even an inadequacy of price; sixth, neither Vail nor Ludlow were parties to the suit, or had any agency in procuring the chancery sale, and fraud cannot be imputed to Vail in fairly purchasing at a sale where there was competition

among the bidders, and at which a large number of persons were present; (see depositions of D. A. Deaderick, p. 49; Charles Morrow, pp. 51, 52; Horace Foster, p. 53;) seventh, the sale cannot be impeached collaterally, except upon some fraud in which the purchaser was a participant, (3 *Abb. Nat. Dig.*, 136, *No.* 29.)

5. ANSWER TO MISCELLANEOUS OBJECTIONS.

1. Want of publication or notice may be error, but does not make the proceedings void. (*Drake*, §§ 437, 447.)

2. Real estate may be attached, although there is personalty. (*Drake on Attach.*, § 233.) And it is not necessary, in attachment cases, to show that search was made and no personal property found. (*Boggess* vs. *Gamble*, 3 *Cold.*, 151) In this case the sheriff returned, "No personal property of respondent to be found." (p. 19)

3. The fact that the civil war was pending can have no influence on the title: first, because the acts of secession were void; and, secondly, because Ramsey, the complainant, voluntarily placed himself within the rebel lines, and cannot take advantage of his own wrong. (See Mr. Janin's argument and opinion of the court in *Walker* vs. *Villavoso*, 6 *Wall.*, 126–129.)

4. The Tennessee ordinance of secession did not affect the jurisdiction of the courts. (*White* v. *Cannon* 6 *Wall.*, 450.) And the general laws revived on the re-occupation. (3 *Cold.*, 554; 2 *Cold.*, 267.)

5. The appointment of Judge Lucky, by the military governor, was made good by the schedule to the amended constitution of Tennessee of 22d February, 1865, section 7; and the powers of the military governor are expressly recognized in *Rutledge* vs. *Fogg*, (3 *Cold.*, 554.)

6. All process issued under "the true and lawful government of the State or of the United States," after the 1st September, 1863, is made valid by the act of 1865, (p. 50;) and the attachment issued in this case is, therefore, valid, if for no other reason.

7. The decrees, whether made at a special or regular term, are the acts of an officer *de facto*, and, as such, are

good, although the court may have been held (which is not admitted) at a time not prescribed by law. (*Venable* vs. *Curd & White*, 2 *Head.*, 582; *Galbraith* vs. *McFarland*, 2 *Cold.*, 267.)

8. This bill cannot be entertained as a bill to redeem, because there is no tender of the purchase-money and deposit thereof in court. (*Simmons* vs. *Marable*, 11 *Hum.*, 436; *Code*, § 2131; *Acts of Tenn.*, 1859, p. 85.)

6. LUDLOW AS A PURCHASER.

He relies upon this defense, in his answer, according to the cases cited in Heiskell's Digest, 552, No. 3, *et seq.*

By the express provisions of the Code, the title of the purchaser is protected, although there may have been errors in the proceedings. As to attachment cases, see Code, § 3534; and as to writs of error, *ib.*, § 3186.

Even if the decree were fraudulent, *inter partes*, it is valid so far as it affects third persons. (2 *Abb. Nat. Dig.*, 562, *No.* 53; *Sims* vs. *Slocum*, 1 *Pet. Cond. R.*, 541; *Ammidon* vs. *Smith*, 3 *Ibid*, 589; *Pinson* vs. *Ivey*, 2 *Meigs D.*, 636; 2 *Meigs D.*, 637, *No.* 1162; *Ibid*, 916, *No.* 4; 1 *Meigs D.*, 520, *No.* 2.)

Vail and Ludlow were not parties to the suit, and are innocent purchasers without notice. The fact that they caused the chancery proceedings to be examined does not amount to notice that Ramsey never saw the publication, or of the pretended equities set up in his bill.

Vail, the purchaser at the judicial sale, stands on the same footing as a purchaser directly from the debtor. (2 *Lead. Cases in Eq.*, 110.)

And Ludlow, as a purchaser from Vail, was not bound to look beyond the decree. (*Voorhees* vs. *The Bank*, 10 *Pet.*, 477; 2 *Lead. Cases in Eq.*, 69, 111.)

The judgment or decree of the State courts is conclusive in all other courts, and not open to inquiry upon the merits. (*Christmas* v. *Russell*, 5 *Wall.*, 302.)

It is not admitted that there was any fraud or circumvention, as between Ludlow and Vail, in the purchase by the former from the latter; but if there were, and Vail had acquired

a good title under the chancellor's decree, the complainant, in this view, is in no way interested in their dealings. If his title was divested, he has no right to complain of the alleged fraud in the purchase by Ludlow from Vail, and the latter is the only person who could complain of it. But he does not complain in any legal mode, and it would, in this aspect of the case, be fruitless to discuss the validity or effect of the deed of conveyance from Vail to Ludlow.

It may not be out of place to observe, in conclusion, that every citizen is interested in sustaining judicial sales. If sales are set aside upon matters not apparent in the record, no purchaser will be safe. In this case, the purchaser was careful to have the title examined, before purchasing, so far as it could be ascertained from an examination of the court records. Confiding in the intelligence and integrity of the court, could he doubt that publication had been duly made, when the chancellor, in his decree, declares that the judgment, *pro confesso*, was regularly entered; or that the defendant was absconding; or that the debt was just; or that the levy was properly made; or that the chancellor lawfully decreed a sale of the property; or that the sale was rightfully confirmed; or that he might place unlimited confidence in the action of a respectable judicial tribunal; or that he would be protected by that tribunal in making a purchase which would be protected not only by its authority, but in every other legal form.

It is respectfully submitted as of the greatest public importance that a sale thus made shall be sustained, and that bidders shall not be utterly deterred from confiding in the matured and impartial determinations of the courts of chancery.

THOMAS A. R. NELSON,
HORACE MAYNARD,
For Appellant.

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1870.

JACOB R. LUDLOW, APPELLANT,
vs.
J. G. M. RAMSEY, APPELLEE. | No. 142.

BRIEF FOR RAMSEY.

Appeal from the Circuit Court of the United States for the District of East Tennessee.

J. W. MOORE,
FOR RAMSEY.

Supreme Court of the United States

JACOB R. LUDLOW, *Appellant*
vs.
J. G. M. RAMSEY, *Appellee.*
No. 346.

Brief for Appellee.

This is one of the numerous East Tennessee cases of private confiscations of property. This case verifies the truth of the foregoing assertion.

It will be seen from this record that the United States instituted proceedings at Knoxville to confiscate the identical property in controversy in this suit, seized and took possession thereof pending the original proceedings in the State Court of White against the appellee. And the appellee was allowed to appear and answer in said proceedings by the United States, and filing a pardon from the President of the United States, his property was released and he was put into possession of the same by the process of the United States Court.

On page 23 of this record it will be seen that the United States by James P. Swan, District Attorney, filed information against said property in October, 1864. The decree by the State Court for the sale of the property to satisfy White's debt, was rendered in October, 1864, (see page 19 of the record,) and the sale at which Vail became the purchaser, took place on the 3d of January, 1865. (See page 20 of the record.)

On the 14th of December, 1864, and prior to the sale under the decree of the State Court, the said Cynthia White filed her petition in the United States Court, and by said court was permitted to intervene in the proceedings then going on against the said property, where, by virtue of the act of Congress in such cases made and provided, she had the privilege of asserting any right she may have had to the property. (See page 4 of the record.)

Upon the release of the property by the United States Court,

the appellees property was restored to him; awrit of possession awarded, and he put in possession.

The State Court seems to have taken no notice whatever of the proceedings in the United States Court, but acted in contempt of its authority.

The appellant on page 23 of the record, in his petition, avers that when he was informed of the proceedings in the United States Court, he appeared and asked leave to intervene in said proceedings, but was denied the privilege. *There is no proof of this in the record.*

Now for the appellant, we insist, that he was put in possession of his property by the decree and order of the United States Court, and that the State Court had no jurisdiction to set aside and vacate said decree and order. And especially upon the *ex parte* petition of the appellant, Ludlow, without making the appellee or any other party interested in the subject matter of the suit, a party thereto.

The appellee was not made a party to said petition, and had no notice of the same.

But we maintain that the attachment sued out in the first instance by White against the appellee, was not authorized by the laws of Tennessee, and that all subsequent proceedings thereon, were a nullity. On this point we refer to the following cases: W. W. Woolfork vs. James Whitmore, 5 Caldwell's Reports, page 561; Thompson vs. Cooper, 11 Hume, page 542; Morrison vs. Davis, 4 Sneed, 953; Smith vs. Foster, 3 Caldwell, 140; Haynes vs. Gates, 2 Head, 598; Engle vs. McCurry, adm'r of Herndry, &c., (See manuscript opinion.)

The affidavit upon which said attachment was obtained, does not meet in form or in substance, the requirements of the law as expounded in the foregoing cases. This record seems to us to present a case of extreme injustice to the appellee. A valuable building lot in the town of Knoxville, worth more than thirty times the amount of the debt due to White, was levied on when there were other pieces of property not a stone's throw from it far less valuable; yet abundantly sufficient to pay the debt, notoriously known to be the property of the appellee. Yet this valuable piece of property was levied on and exposed to sale, and as we maintain, sacrificed; for the amount for which it sold was grossly inadequate

to its value. And there is one thing which must impress itself with much force upon the mind of the Court; and that is, that the rents of the property amounted to much more than double the interest on ten thousand dollars, the value fixed by the (appellee on the property,) and yet some of the witnesses undertake to say that five thousand dollars was a fair price for it. This we say is a species of confiscation which the Government would not do in this case. And it would be strange indeed, if Courts of that Government would permit private parties to do that which the Government would not do. The appellee obtained his pardon from the President of the United States, and whatever may have been his sympathies with the rebellion, he has as he had a legal right to do, alleged in his bill the fact of the existence at the time of a public war, and that being within the lines of the rebel authorities, he had no possible opportunity to defend the suit against him, nor to obtain any information of the existence of such a proceeding.

That this Court has too often recognized the late war of the rebellion to have been a public war, to be now questioned, and the fact that the appellee before the Federal army took possession of the country around Knoxville had resided there and voluntarily left and gone to another State, might have some weight in determining his status in a proceeding by the Government against him, but it is difficult to perceive how it could avail Ludlow in this suit. But the appellant, while he does not deny the fact as alleged in appellee's bill, that he was within the rebel lines, and could not have appeared and defended the suit, still he seems to think it enough to aver that Ramsay was identified with the rebellion. At this point there are two prominent ideas that occur to us. The first is, that a party situated as Ramsey was, might have put in his bill of exceptions or have done certain things during the trial of said cause, when he was prohibited from coming within the Federal lines by the proclamation of the President, and by the very nature of the relations then existing between the belligerents.

The second is, that Ludlow pretends not to have known of the existence of any such prohibition or regulation.

These two things, we repeat, are most surprising, and can only be accounted for upon the hypothesis that such persons as he and Vail, were too much engaged in hunting up their neighbors proper-

ty, to take much notice of what was going on relative to the great matters of war policy of the Government. We feel authorized to make this assertion from the fact that we see in this record no evidence of any monument of the heroic deeds of Vail and Ludlow in support of the cause of the Union in that trying hour when the appellee is charged to have been giving aid and comfort to the rebellion.

But we now propose to invite the attention of the Court to the law as the same has been settled with respect to parties situated as these parties were during the war. And first we refer to the case of Dean vs. Nelson, decided at the present term of the Court, and also to the following authorities: Cuyler vs. Ferrill, 1 Vol., Abbot's United States Reports, page 169.

See also the Prize cases in 2 Black, page 635.

We ask an affirmance of the decree of the Court below.

J. W. MOORE,

For Ramsey.

Supreme Court of the United States.

JACOB R. LUDLOW

vs.

J. G. M. RAMSEY.

Appeal.

ADDITIONAL BRIEF FOR APPELLEE.

The chancery court at Knoxville had no jurisdiction of the suit of Cynthia G. White *vs.* J. G. M. Ramsey.

1. J. G. M. Ramsey was an alien enemy at the time.

Prize cases, 2 Black, 636; Record, pages 1, 9, 13; 1 Bos. & Pull., 163.

State of war and non-intercourse existed.

Act of July 13, 1861, 12 Stat., 257; Proclamation of President.

That part of Tennessee, including Konxville, was occupied by the United States troops, and within its jurisdiction, during all the proceedings in case of White *vs.* Ramsey.

The Venice, 2 Wall., 157, Ouachita cotton, 6 Wall., 531; Record, *passim*, Graham *vs.* Merrill, 8 Law Register, 477.

2. All debts are suspended during war.

Upton on Prize, 40, 41, 42, 43; Grot., ch. 20, sec. 16; Wheat. Int. Law, 877; Hanger *vs.* Abbott, 6 Wall., 532; Stewart *vs.* Levy, present term; U. S. *vs.* Grossmayer, 9 Wall., 72; Dean *vs.* Nelson, 10 vol. N. S., Law Reg., 221.

Interest on debt suspended.

Mott *vs.* Smith, 7 Wall., 447; Jordan *vs.* Nelson, 8 Law Reg., 225, and cases there cited.

3. An alien enemy cannot sue or be sued.

Sparenburgh *vs.* Bannatyne, 1 Bos. & Pull., 163. Bell *vs.* Chapman, 10 Johns., 182. Clarke *vs.* Morey, 10 John. 68, 72. Wheat. Int. Law, 546. 8 Am. Law Rep., 673, Semmes *vs.* City Fire Ins. Co. Dean *vs.* Nelson, present term, 10 Law Reg., 221.

During war a writ of attachment cannot be issued against the property of an alien enemy; nor can a service of the writ be made.

International law, like the common law, is a part of the law of the United States.

Hanger *vs.* Abbott, 6 Wallace, 539. 7 Opinion Attorney Gen'l, 27.

The property of the appellee, J. G. M. Ramsey, was not at the time of the service of the writ subject to attachment, nor afterwards to the judgment or sale.

Act of July 17, 1862, 12 Stat., 591.

President's Proclamation, 25th of July, 1862, 12 Stat., 1266.

Seizure by the marshal annulled the attachment of the State Court.

An attachment is not a lien.

2 Story C. C. R., 131; 5 Law Rep., 19, 22.

See Prize & Revenue Cases.

The judgment of the State Court should be set aside on account of fraud.

1 Story's Equity, 252.

Patch *vs.* Ward, 3 Ch. Appeals.

The fraud is apparent in the record.

Vail & Ludlow the appellant, were purchasers with notice.

The sale should be set aside.

LANDER & MOORE,
Counsel for Appellee.